Center for Immigration Studies

If It's Fixed, Don't Break It
Moving Forward with E-Verify

By Janice L. Kephart

"I have been using E Verify for over three years. It takes away all of the guess work in determining if documents presented are valid or not. Being close to the border you would be surprised at the amount of fake IDs that look real until they are run through the program. For the first time in my 20-plus years in HR I am comfortable in knowing that we are hiring only employees who are authorized to work in the United States."

— Ginny Priborsky [1]

The E-Verify program is well on its way to fixing a 20-year-old problem of determining legal employment eligibility in a manner employers can support. Arguably E-Verify is the most successful programmatic upgrade to U.S. interior border systems, assisting employers in abiding by the law and weeding out those that don't. Fast, efficient, and easy to use, E-Verify helps employers have confidence that their hiring choices are within the law and less likely to be disrupted by a worksite raid. Enabling employers to make better decisions about the legality of their hires also helps the federal government better prioritize enforcement tools. Illegal immigrants are dissuaded from applying for jobs that use E-Verify, thus making it less likely — the more prevalent in use E-Verify becomes — that illegals will settle into a job, only later to be arrested and land in deportation hearings that lead to family disruption while simultaneously draining enforcement and immigration court resources.

E-Verify enjoys broad bipartisan support, with reauthorization passing in the House of Representatives on July 31, 2008, by a vote of 407-2. House Speaker Nancy Pelosi (D-Calif.) endorsed a comprehensive immigration reform bill last year that reauthorized E-Verify, while in the Senate Sen. John McCain (R-Ariz.) and Sen. Ted Kennedy (D-Mass.) made E-Verify a cornerstone provision in their comprehensive immigration reform bill. Democratic presidential nominee Sen. Barack Obama (D-Ill.) also endorses E-Verify.[2] The entire federal government is using E-Verify. Eleven states require use of E-Verify in certain circumstances, including Arizona and Mississippi, which mandate use of E-Verify for all enterprises in the state. Only one state, Illinois, limits its use.

E-Verify will sunset on November 29, 2008, if not reauthorized.[3] It may not be — Sen. Robert Menendez (D-N.J.) has put a hold on reauthorization. If the hold is not released, or voted down by 61 senators, or if the House version of E-Verify isn't "hotlined" and passed on the Senate floor, E-Verify will disappear. Perhaps because of E-Verify's success, attacks on the program are intensifying. Assessing the credibility of such attacks is the purpose of this paper.

E-Verify Quick Facts

E-Verify is a voluntary web-based program to help U.S. businesses abide by long-standing immigration law requiring that they only employ legal aliens and U.S. citizens. Employers can sign up for the program by e-signing (signing electronically online) a Memorandum of Understanding (MOU) that lays out the responsibilities of both the employer and the government entities that support the program. The MOU only covers new hires.

Called the "Basic Pilot Program" until August 2007, E-Verify is designed to facilitate verification of authorized hires and provide more effective vetting of unauthorized workers. The key to the program is to maximize the facilitation of legitimate hires while also maximizing the opportunity to terminate illegitimate hires. The challenge is to narrow error rates on each side of this process so that legitimate hires are authorized near instantaneously while illegitimate hires are more quickly terminated. While E-Verify error rates are relatively low (about 5 percent of all queries), work continues on minimizing false positives and false negatives. That error rates are indeed small is confirmed by the fact that the proportion of new hires vetted and deemed unauthorized by E-Verify is roughly the same as the percentage of illegal workers in the total U.S. workforce, about 0.5 percent.

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Improvements in speed, process, and data content have helped E-Verify become much better at rooting out fraud by illegal workers. Error rates have come down substantially for the entire pool being vetted, according to sources within the Department of Homeland Security (DHS). In addition, new procedures are enabling SSA and USCIS to streamline their matching and referrals. Further improvement will come when more categories of digital images taken for U.S. IDs, like passports and drivers licenses, are also made available through the Photo Screening Tool. This will help curb a longstanding problem of identity theft in the hiring process — i.e., use of legitimate IDs with substituted photos. Further reducing the ability of job applicants to feign legal work status with legitimate-looking IDs is a DHS priority for honing E-Verify.

The latest comprehensive review of E-Verify is awaiting final approval. Sources state that the error rates are down significantly from the numbers cited below — by as much as half of a percentage point, which is a serious improvement considering how small the error rates were in 2007. In addition, narrow cases of false positives and false negatives are under review at a USCIS fraud unit to assure the program continues to improve.

Some quick facts:

- **Overall accuracy of E-Verify as of first half of 2007**: 99.5 percent

- **Employees authorized within the first 24 hours as of first half of 2007***:* 94.2 percent

  - 93 percent are verified instantly — within five seconds.

  - 1.2 percent are verified after an electronic, 24-hour USCIS check without any notification to the employee.[4]

- **Employees who received a mismatch as of the first half of 2007:** 5.8 percent

  - 5.1 percent from SSA

  - 0.7 percent from USCIS[5]

  - *Initial mismatches that must take action to obtain work authorization:* 0.5 percent

    - 0.4 are U.S. Citizens[6]

    - 0.1 percent are non-citizens[7]

How Does it Work?

- Within three days of hire, a participating employer submits the new employee's Social Security number, name, date of birth, citizenship or alien status, and, if relevant, Alien Registration Number to the Social Security Administration (SSA) over a secure web connection. For noncitizens, this information will then go to U.S. Citizenship and Immigration Services (USCIS).

- If the information provided is confirmed, an authorization is returned within 24 hours.

- If the information provided is not confirmed, a mismatch or "tentative nonconfirmation" is issued. Employees are given eight federal business days to contest that finding and the federal government two days to respond. This includes the opportunity to resolve a mismatch by providing proper documentation to SSA. Until the mismatch is resolved, the employee must be allowed to keep working and cannot be fired or be subject to any other employment-related action.

- If the mismatch is resolved, the employee is considered work-authorized.

- If the mismatch is not resolved, the employee is not considered work-authorized and may be terminated. However, E-Verify must be notified of this decision.

- If employees fail to follow through, an automatic nonconfirmation is issued upon conclusion of the 10-day period.

Note: If a noncitizen presents an immigration card as an ID, E-Verify can be queried by the employer (as of May 2008) to determine whether the photo on the card provided is the same as the photo taken when the card was issued.

- *Initial mismatches later confirmed as work-authorized:* 0.5 percent

  - 0.4 percent are U.S. citizens

  - 0.1 percent are non-citizens[8]

- *Employees not confirmed as work-authorized by E-Verify*: 5.3 percent of employees "receive a final non-confirmation response because they are either not authorized to work in the United States, did not know that they had the opportunity to challenge an initial mismatch (or TNC), or choose not to follow the necessary procedures to prove work authorization after receiving an initial mismatch."[9]

- **Social Security number duplicates:** Duplicate SSNs were found more than twice in 21.9 percent of all transactions, 20.4 percent among those listed as U.S. citizens and 31.0 percent among non-citizens.[10]

- **Rooting out bad identities:** In FY 2007, E-Verify received about three million queries, of which 157,000 were found to be unauthorized to work despite having previously evaded the paper version of the I-9 process, thus stopping their illegal employment.[11]

- **Rooting out document fraud:** According to DHS, several hundred instances of document fraud have been detected by DHS's fraud unit. This number should grow as analysis gets more sophisticated.

  - Non-citizens who supply documents with DHS photos represent about 3.8 percent of all queries. The Photo Screening Tool was added in May 2008 for certain immigration cards used by non-U.S. citizens seeking authorization.[12]

  - The State Department and the states are not yet supporting efforts to make passport and license photos accessible in E-Verify.

- **Reducing mismatches:** As of May 2008, USCIS has made accessible naturalized citizen files to USCIS personnel for the purpose of verifying employee information through E-Verify. For example, if there is an initial mismatch of a naturalized citizen with SSA due to failure to change status with SSA, or a similar problem, the hire can call USCIS directly and get the matter resolved without being required to go to SSA to update their records. This has been the largest category of mismatches.[13]

- **Employer enrollment is increasing exponentially:** According to Stewart Baker, DHS Assistant Secretary of Policy, more than 10 percent of all new hires in the first two months of 2008 were checked by E-Verify, representing an exponential growth in its use.[14]

  - When Basic Pilot became Web-based, 1,533 employers had signed up by the end of the first half of FY 2005.[15]

  - As of August 2008 there were 78,000 employer MOUs representing over 315,000 sites and over five million queries processed.[16]

  - As of September 13, 2008, there were 85,816 employer MOUs representing over 446,000 sites and over 6.21 million queries processed.[17]

- **Cost effective:** E-Verify is inexpensive;

  - "$100 or less in initial set-up costs for the Web Basic Pilot (E-Verify) and a similar amount annually to operate the system"[18]

  - Total costs, including training and time, are estimated to be $419 per year for a federal contractor of 10 employees and about $9,000 per year for any company over 500 employees or, "less than 1 percent of expected revenue of these four sizes of small entities."[19]

  - Processing new hires takes about five minutes to enter the new hire's information and to submit a query, and if the Photo Screening Tool is used, another five minutes.[20]

- **State support for E-Verify:** 11 states require use of E-Verify in certain circumstances (Arizona, Colorado, Georgia, Indiana, Minnesota, Mississippi, Missouri, North Carolina, Oklahoma, Rhode Island, and Utah), one encourages use (Tennessee), and one limits use (Illinois).[21]

Legislative History

The legal basis for E-Verify traces back 22 years. The 1986 Immigration Reform and Control Act (IRCA) explicitly prohibited unauthorized persons from working in the United States. IRCA established criminal and civil penalties for employers acting with constructive knowledge that they are hiring unauthorized workers. IRCA also established a paper system to verify eligibility by having employers review documents produced by new hires. But with no biometrics, no ability to authenticate either the new hires' documents or information or to verify identity, the process was difficult even for good-faith employers, and was not very effective. Meanwhile, the market surged in all varieties of counterfeit documents accepted by the program as "proof" of identity and work authorization.

In 1996, President Clinton issued an executive order prohibiting federal agencies from contracting with firms that employ unauthorized workers in violation of IRCA.[22] The immigration law passed in the same year, the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), established three pilot electronic verification programs designed to supplement the paper-based system established under the 1986 law.[23] In 1996, the Basic Pilot Program was initiated in California, Florida, Illinois, New York, and Texas (1997), with Nebraska joining in 1999. Congress authorized the expansion of the pilot to employers in all 50 states in 2003.

One of the three pilot programs survived, despite significant problems with the IIRIRA mandate of identity verification and concerns about employer liability. That one program, generically dubbed "Basic Pilot" after its statutory section title, was changed to a Web-based program in 2004. The Web-based Basic Pilot was designed to provide real-time authorization while addressing outstanding issues of verification, mismatches, system speed, and ease of use. As the Westat report stated, this program is far from static.[24]

E-Verify statutorily sunsets on November 30, 2008. The Basic Pilot Program was authorized for four years under IIRIRA, with a one-year implementation period. In 2002, the pilot was extended for two years, and then for five more years in 2003 under The Basic Pilot Program Extension and Expansion Act of 2003.[25] In July 2008, the House of Representatives reauthorized the program for another five years, 407-2.[26]

The Senate has yet to reauthorize E-Verify. Two reauthorization bills are pending, one by Sen. Chuck Grassley (R-Ia.)[27] and the other by Senators Arlen Specter (R-Penn.) and Patrick Leahy (D-Vt.).[28] The Specter/Leahy bill is a straightforward five-year reauthorization similar to the measure passed by the House. Sen. Robert Menendez (D-N.J.) has put a hold on the Specter/Leahy bill. If the hold is not lifted, or if the House-passed version can't be voted on, E-Verify will disappear.

E-Verify Use by Federal Contractors

Current employer enrollment numbers show E-Verify covers about 11 percent of all hires nationwide. A new rule would expand that coverage to about 20 percent of employers. In June 2008 President Bush issued Executive Order 13456[29] (amending President Clinton's Executive Order 12989, issued in 1996)[30] in light of the "reliability, convenience, and accuracy of the E-Verify system," directing all employers with federal contracts to enroll in E-Verify. The Executive Order (EO) applies to all new hires and current employees assigned to work on future federal contracts. The EO is not effective until final regulations are published, which is anticipated toward the end of 2008. The Clinton EO was published a few months before the Basic Pilot Program became law, so including reference to Basic Pilot in the original EO was obviously not an option. Instead, the Clinton EO simply imposed a requirement on federal contractors that they not hire unauthorized workers; it provided no means of helping businesses distinguish between authorized and unauthorized hires.

The Bush EO widens its legal standing to issue an order under the Federal Acquisition Regulation, carefully invoking both economic policy and immigration law and policy. Specifically, the Bush EO notes the economic value of minimizing the "direct risk of disruption, delay, and increased expense in Federal contracting" when the federal government is obliged to fulfill its requirements under law to "remove and deport" illegal aliens from worksites.

Not only does the new EO place all federal contractors on an even economic playing field, it offers a legal incentive to employers to sign up with E-Verify: namely, a plausible legal presumption in their favor if unauthorized workers are found in their work force. This added incentive to enroll in E-Verify is economically justified for the employer in three ways: (1) minimal cost to set up and use E-Verify; (2) minimal potential disruption due to a workplace raid once E-Verify is in place for a period of time (as the order only applies to new hires or new contracts and is not retroactive); and (3) minimal potential economic and legal harm from potential sanctions. In short, a lot is being fixed at minimal cost to federal contractors. The same can be said for all other private employers as well, as the EO

makes clear that E-Verify is to be used by the federal government in all its hires. By setting an example — arguably in the realm of "best practices" — the new EO states:

> It is the policy of the executive branch to use an electronic employment verification system because, among other reasons, it provides the best available means to confirm the identity and work eligibility of all employees that join the Federal workforce. Private employers that choose to contract with the Federal Government should meet the same standard.

Critics challenge whether the Bush EO violates current immigration law, claiming that the underlying immigration law established a voluntary Basic Pilot Program, and thus the Bush EO is unenforceable since it makes E-Verify mandatory for federal contractors. But these critics are mistaken about the underlying immigration law for the EOs: The underlying law is not the 1996 IIRIRA that created the Basic Pilot Program, but rather IRCA, which states that no employer may hire unauthorized workers. While it is not the purpose of this paper to argue that E-Verify be made mandatory — that is a separate issue — IRCA actually lays the groundwork for Congress to make E-Verify mandatory to ensure that employers follow federal immigration law.

On the next two pages is a side-by-side comparison of the key language differences between the 1996 and 2008 executive orders. Arguments that EO 13465 somehow does not make a sufficient nexus to economy and efficiency as required under the relevant federal procurement statute, and the President thus has no authority to issue the order, is an example of legalese used to obfuscate the plain language of the Order. In fact, the Bush EO makes its case with much greater clarity than its predecessor, and that EO was never challenged.

On June 12, 2008, the Department of Defense, NASA, and the General Services Administration set forth their proposed rule for E-Verify use by their contractors and sub-contractors, discussing the economic and national security interest in assuring that unauthorized aliens are not working on federal contracts:

> The E-Verify System is expected to help contractors avoid employment of unauthorized aliens and will assist Federal agencies to avoid contracting with companies that knowingly hire unauthorized aliens. This enhances the Government's ability to protect national security and ensure compliance with the nation's immigration laws — core aspects of the Government's mission that otherwise could be compromised by the presence of unauthorized aliens in Government facilities or by the employment of unauthorized aliens in the Government's supply chain. It also protects U.S. workers by creating another disincentive for companies to hire unauthorized aliens who may command lower wages.[31]

The U.S. Chamber of Commerce, however, citing disruptions and costs to employers, has stated that, "Without very significant changes, we would look at all options to stop a final rule, including a court challenge."[32]

Substantial Improvement

E-Verify enables employers to vet potential hires at the front-end of employment with a greater degree of confidence that the people they are hiring are who they say they are and are authorized to work in the United States. Just one example of the improvement of the Web-based system over the paper-based system is that E-Verify is currently providing work authorizations 94 percent of the time. The old system — in place until 2004 — only provided work authorizations 79 percent of the time.[33]

A Westat report details the improvements made to Basic Pilot since 2004:

> The technical changes made in the Web Basic Pilot appear to have reduced employer burden and improved employer satisfaction. Employers expressed satisfaction with many aspects of the new features of the Web Basic Pilot. For example, almost all employers reported that the on-line registration process was easy to complete and that the on-line tutorial adequately prepared them to use the system. Furthermore, a large majority of the long-term employers surveyed (88 percent) that have had experience with both the original Basic Pilot and the Web Basic Pilot reported that the benefits of the Web Basic Pilot verification system are greater than those of the original Basic Pilot.[34]

Cost

Despite claims otherwise, setting up and using E-Verify is cheap. According to the Regulatory Impact Analysis for the 2008 EO, private companies earned $349 billion in U.S. tax dollars on federal contracts in FY 2007. These estimated 127,000 contractors may have to spend a maximum of up to $9,000 each in time, personnel, and

Differences between the 1996 and 2008 Executive Orders

Italics = key language deleted from Executive Order 12989
Bold = key language changed from EO 12989 or added to EO 13465

EXECUTIVE ORDER 12989

Federal Register
Vol. 61, No. 32
Thursday, February 15, 1996
Title 3—
The President
Executive Order 12989 of February 13, 1996
Economy and Efficiency in Government Procurement Through Compliance With Certain Immigration and Naturalization Act Provisions

This order is designed to promote economy and efficiency in Government procurement. Stability and dependability are important elements of economy and efficiency. A contractor whose work force is less stable will be less likely to produce goods and services economically and efficiently than a contractor whose work force is more stable. It remains the policy of this *Administration* to enforce the immigration laws to the fullest extent, including the detection and deportation of illegal aliens. In these circumstances, contractors cannot rely on the continuing availability and service of illegal aliens, and contractors that choose to employ unauthorized aliens inevitably will have a less stable and less dependable work force than contractors that do not employ such persons. *Because of this Administration's vigorous enforcement policy*, contractors that employ unauthorized alien workers are necessarily less stable and dependable procurement sources than contractors *that do not hire such persons*. I find, therefore, that adherence to the general policy of *not contracting with* providers that knowingly employ unauthorized alien workers will promote economy and efficiency in Federal procurement.

EXECUTIVE ORDER 13465

Federal Register
Vol. 73, No. 113
Wednesday, June 11, 2008
Title 3—
The President
Executive Order 13465 of June 6, 2008
Amending Executive Order 12989, as Amended

By the authority vested in me as President by the Constitution and the laws of the United States of America, including subsection 121(a) of title 40 and section 301 of title 3, United States Code, and in order to take further steps to promote economy and efficiency in Federal Government procurement, it is hereby ordered as follows:
Section 1. Executive Order 12989 of February 13, 1996, as amended, is further amended:
(a) by striking the title and inserting in lieu thereof "Economy and Efficiency in Government Procurement Through Compliance with Certain Immigration and Nationality Act Provisions **and Use of an Electronic Employment Eligibility Verification System"**; and
(b) by striking the material that follows the title and precedes section 1 of the order and inserting in lieu thereof the following:

"This order is designed to promote economy and efficiency in Federal Government procurement. Stability and dependability are important elements of economy and efficiency. A contractor whose workforce is less stable will be less likely to produce goods and services economically and efficiently than a contractor whose workforce is more stable. It is the policy of the **executive branch** to enforce fully the immigration laws of the United States, including the detection and removal of illegal aliens **and the imposition of legal sanctions against employers that hire illegal aliens. Because of the worksite enforcement policy of the United States and the underlying obligation of the executive branch to enforce the immigration laws,** contractors that employ illegal aliens cannot rely on the continuing availability and service of those illegal workers, and such Contractors inevitably will have a less stable and less dependable workforce than contractors that do not employ such persons. **Where a contractor assigns illegal aliens to work on Federal contracts, the enforcement of Federal immigration laws**

Differences between the 1996 and 2008 Executive Orders (Continued)

imposes a direct risk of disruption, delay, and increased expense in Federal contracting. Such contractors are less dependable procurement sources, even if they do not knowingly hire or knowingly continue to employ unauthorized workers.

"**Contractors that adopt rigorous employment eligibility confirmation policies are much less likely to face immigration enforcement actions, because they** are less likely to employ unauthorized workers, and they are therefore generally more efficient and dependable procurement sources than contractors **that do not employ the best available measures to verify the work eligibility of their workforce. It is the policy of the executive branch to use an electronic employment verification system because**, among other reasons, it provides the best available means to confirm the identity and work eligibility of all employees that join the Federal workforce. Private employers that choose to contract with the Federal Government should meet the same standard.**

"I find, therefore, that adherence to the general policy of **contracting only with** providers that **do not** knowingly employ unauthorized alien workers **and that have agreed to utilize an electronic employment verification system designated by the Secretary of Homeland Security to confirm the employment eligibility of their workforce** will promote economy and efficiency in Federal procurement.

NOW, THEREFORE, to ensure the economical and efficient administration and completion of Federal Government contracts, and by the authority vested in me as President by the Constitution and the laws of the United States of America, including *40 U.S.C. 486(a) and 3 U.S.C. 301*, it is hereby ordered as follows:

Section 1. (a) It is the policy of the executive branch in procuring goods and services that, to ensure the economical and efficient administration and completion of Federal Government contracts, *contracting agencies should not contract with employers that have not complied with section 274A(a)(1)(A) and 274A(a)(2) of the Immigration and Nationality Act (8 U.S.C. 1324a(a)(1)(A), 1324a(a)(2)) (the "INA employment provisions") prohibiting the unlawful employment of aliens. All discretion under this Executive order shall be exercised consistent with this policy.*
(b) It remains the policy of *this Administration* to fully *and aggressively* enforce the antidiscrimination provisions of the Immigration and Nationality Act *to the fullest extent*. Nothing in this order relieves employers *from their obligation to avoid unfair immigration-related employment practices as required by the* antidiscrimination provisions of section 1324(b) of the INA (8 U.S.C. 1324b) *and all other antidiscrimination requirements of applicable law….*

"NOW, THEREFORE, to ensure the economical and efficient administration and completion of Federal Government contracts, and by the authority vested in me as President by the Constitution and the laws of the United States of America, including **subsection 121(a) of title 40 and section 301 of title 3, United States Code**, it is hereby ordered as follows:"

Sec. 2. Section 1 of Executive Order 12989, as amended, is further amended by:
(a) striking the last sentence in subsection 1(a); and
(b) striking subsection (b) and inserting in lieu thereof the following new subsections:
"(b) It is the policy of the executive branch in procuring goods and services that, to ensure the economical and efficient administration and completion of Federal Government contracts, contracting agencies **may not enter into contracts with employers that do not use the best available means to confirm the work authorization of their workforce.**
"(c) It is the policy of **the executive branch** to enforce fully the antidiscrimination provisions of the INA. Nothing in this order relieves employers of antidiscrimination obligations under section 274B of the INA (8 U.S.C. 1324b) or any other law.

E-Verify is projected to be $10 billion, nearly 100 times what the government — and the Westat report — estimate.[37]

E-Verify and Worksite Enforcement

A legitimate business that consistently uses E-Verify for its hires is likely to be spared the intensity of stepped-up worksite enforcement investigations. At total of 1,593 workers have been arrested at sites just in fiscal year 2008 (through July 11, 2008). The Mississippi raid in August 2008 was the largest in history, with 595 workers arrested. Leading up to that raid, Immigration and Customs Enforcement (ICE) had made 937 criminal arrests. ICE explains its worksite enforcement for fiscal year 2008 as follows:

> *ICE has made 937 criminal arrests in connection with worksite enforcement investigations. Of those, 99 involve owners, managers, supervisors, or human resources employees who face charges ranging from harboring to knowingly hiring illegal aliens. In addition to the criminal arrests, ICE has made more than 3,500 administrative arrests for immigration violations during worksite investigations in that same time frame. Last year, ICE made more than 4,900 arrests in worksite enforcement cases, including 863 involving criminal violations. Last year's figure represents a 45-fold increase in criminal worksite arrests compared to FY 2001. Furthermore, in FY 2007, ICE obtained more than $31 million in criminal fines, restitutions, and civil judgments as a result of worksite related enforcement actions.[38]*

Some of the most widely publicized raids occurred in Mississippi, North Carolina, and Massachusetts. The North Carolina firm was actually a longstanding federal contractor producing parachutes; the CEO said his company was unaware of the illegal workers, having checked drivers licenses, Social Security cards, and green cards. But the CEO wasn't using E-Verify. If any of those illegal workers caught had been hired since 2004, E-Verify checks could have saved disruption and trauma to both the business and those detained workers and their families. Also important in the realm of federal contractors especially, illegal workers can be blackmailed by those seeking access to sensitive facilities. Any business should want protection from being tied to another 9/11.

E-Verify in Chattanooga

Since the voluntary program E-Verify was offered to employers in 2004, almost 4,000 Georgia companies and more than 800 businesses in Tennessee have signed up to participate in the federal program, including 50 employers in Chattanooga and 96 in Dalton, Ga.

"We have been using E-Verify without any real problems for three years," said Kary Klein, owner of the temporary hiring firm SmartHire in Chattanooga. "I could see the trend coming, and I think eventually most employers are going to have to use it. We want to be a leader in our industry, so we began using E-Verify very early."

Jessica Jones, an employee at SmartHire, said the computer check of new hires is quick and easy.

Officials with local personnel agencies using the system for new hires say they are not experiencing problems.

"It's been very easy for us to work with and quite user friendly," said David Crisp, vice president for Olsten Staffing Services in Chattanooga. "Once the word gets out that you are using the system, very few people come to you who might have a problem with their immigration status."*

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* Perla Trevizo, "Chattanooga: More employers use E-Verify despite complaints," *Chattanooga Times Free Press,* September 1, 2008.

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systems to get E-Verify implemented. That amounts to an average of 0.003 percent or less of earnings spent on authorizing hires for a projected three million new hires requiring vetting through E-Verify.[35]

Westat reported low costs as well for all users of E-Verify dating back to 2004:

> *The majority of employers reported that they spent $100 or less in initial set-up costs for the Web Basic Pilot and a similar amount annually for operating the system. These costs were considerably below those for the original Basic Pilot. Furthermore, as discussed above, most employers were satisfied with the program and reported that the benefits of using the Web Basic Pilot outweighed its disadvantages.[36]*

In a study commissioned by the U.S. Chamber of Commerce, which has threatened to sue the federal Government if it implements the Bush EO applying E-Verify to federal contractors, the cost to implement

Weeding Out Exploitation by Making E-Verify Mandatory

If E-Verify were mandatory, one important societal benefit would be that the solicitation and abuse of illegal workers would be more difficult for businesses that purposely violate federal immigration law. The Postville plant was not just hiring illegal workers, but also abusing them. Claims of criminal drug production persist.

As long as E-Verify is voluntary, employers such as Agriprocessors will never sign up because they have too much to lose. Yet, if they had to sign up they would be forced to make a choice: not comply, and take their chances under the radar; comply, but conduct their checks fraudulently; or get on board as a legitimate employer. The first two choices put a bad actor more easily in the hands of law enforcement where they belong; the last is win-win for employers, American, and foreign-born legal workers, law enforcement resources, and society as a whole.

Feds Allege Rampant ID Fraud

A federal search warrant said immigration officials have filed almost 700 complaints about immigration violations and criminal activity by workers at the Postville plant. The activity spans a two-year period, and some workers face multiple allegations.

Federal officials allege that as many as three-fourths of the company's workers at the end of last year were using fraudulent Social Security numbers.

Last November, the search warrant said, ICE agents interviewed a former Agriprocessors supervisor who said some employees were running a methamphetamine lab in the plant and were bringing weapons to work.

Another source alleged worker abuse, officials said in the warrant. In one case, a supervisor covered the eyes of an employee with duct tape and struck him with a meat hook.

The worker, who had entered the country illegally from Guatemala, was not seriously injured. He declined to report the incident for fear of losing his job, the warrant said.

Another plant worker told federal officials that undocumented workers were paid $5 an hour for their first few months before receiving a pay increase to $6 per hour. The minimum wage in Iowa is $7.25 an hour.*

* "Claims of ID fraud lead to largest raid in state history," Nigel Duara, William Petroski, and Grant Shulte, *Des Moines Register,* May 12, 2008.

The Agriprocessors Raid

Agriprocessors, Inc., a kosher slaughterhouse in Postville, Ia., was raided on May 12, 2008. At the time, no raid that large had ever occurred; 389 were arrested. The U.S. Attorney's office in the Northern District of Iowa stated that those arrested included 290 Guatemalans, 93 Mexicans, two Israelis, and four Ukrainians. Nearly 80 percent of Agriprocessors' 969 workers were no-shows for work the day after the ICE operation.[39] The small community of about 2,200 was left disrupted, with up to a third of students not attending school for days after the raid.

A nearby fairground acted as an ICE holding facility where arrestees were briefed and told their options and rights. Plea agreements were offered in exchange for prosecution, and within a week, 297 had accepted plea agreements. Most received five months in prison to be followed by deportation. At least 225 were charged with misuse of Social Security numbers, and there were over 300 charges relating to document fraud and identity theft.[40] Charging illegals with the crimes committed to fraudulently attain employment verified the Bush administration's continued claims that worksite enforcement is being stepped up. In the past, most illegal workers were simply deported and told they would be charged only if they re-entered the United States illegally.

Seven weeks later, on July 3, 2008, two men employed at the plant, Juan Carlos Guerrero-Espinoza, 35, and Martin De La Rosa-Loera, 43, were charged in federal court in Cedar Rapids for the possession and use of fraudulent identity documents and soliciting aliens to illegally reside in the United States. Guerrero-Espinoza was also charged with aiding and abetting aggravated identity theft. The complaint against Guerrero-Espinoza alleges that in early May 2008 he told a group of employees they had to pay him $200 to $220 each to continue employment, along with new IDs, photos, and Social Security numbers to continue working at the company. De La Rosa-Loera acted similarly, telling illegals they needed new documents and then later telling them they could use the same names. Fraudulent resident alien cards were also supplied to workers.[41]

In August 2008, Guerrero-Espinoza, who supervised the plant's beef kill department, entered into a plea agreement with federal prosecutors. He could receive up to seven years in prison and a total fine of $500,000 for the charges relating to the hiring of illegal aliens. A federal magistrate indicated that Guerrero-Espinoza would likely serve a prison term of four to five years and could be deported upon completion of his prison term.[42] De la Rosa-Loera pled guilty to aiding and abetting the

harboring of illegal immigrants "while knowing and recklessly disregarding the fact that" the workers were in the country illegally. He faces a maximum of five years in prison and a $250,000 fine.[43]

Raids in Arkansas in April and July 2008
Arkansas has had three worksite enforcement raids since April 2008. In April, federal agents arrested 21 suspected illegal immigrants at Pilgrim's Pride plant in Batesville[44] as part of a sweep through the chicken processor's plants that resulted in over 400 arrests, about 4 percent of its workforce, for misuse of Social Security numbers and drivers licenses and identity theft. The other plants were in Chattanooga, Tenn.; Live Oak, Fla.; Moorefield, W.V.; and Mt. Pleasant, Texas. Two weeks later, ICE agents arrested 24 suspected illegals working a construction project near the Little Rock National Airport.[45]

In July 2008, ICE arrested 13 suspected illegal men from Guatemala and Mexico at Waco Manufacturing, a boat company in North Little Rock, who were accused of committing identity theft by using other people's Social Security numbers or federally issued legal alien numbers to apply for work.[46] Special Agents from Social Security's Office of Inspector General participated in the raid. All 13 were convicted of document fraud and misuse of Social Security cards and by the end of July all were transferred to removal proceedings.[47]

According to news reports, Thomas Cox, president of Aloha Pontoons, owned by Waco Manufacturing, said the inquiries about his employees came as a surprise: "We had every reason to believe they were legal and they were wonderful employees," Cox said. He declined to comment further on the investigation.[48]

Raid on Howard Industries in Mississippi
After a two-year investigation, 595 suspected illegals were arrested on August 28, 2008, at Howard Industries, in Laurel, Miss. Howard employs about 4,000 workers and is the largest employer in its region of Mississippi, manufacturing numerous products including electrical transformers and medical supplies.[49] The workers came from South America and Europe: Peru, Mexico, El Salvador, Guatemala, Panama, Honduras, Brazil, and Germany. A total of 475 were sent to detention centers in Louisiana, 106 released for humanitarian reasons, such as tending to young children or a medical condition, pending court appearances, and nine were 17-year-old juveniles (one female and eight males), dealt with as refugees.[50]

Charges included aggravated identity theft, fraudulent use of Social Security numbers, and other crimes. One had used the identity of a dead person to gain employment, with the others using stolen identities. Prosecutors had evidence of fraudulent resident alien cards and Social Security cards along with Howard Industries employment verification forms. ICE had discovered the identity theft by comparing Howard employee lists with lists of known stolen identities. Citing potential use of identity theft to flee, the judge held seven without bond. The other, a single mother who had worked at Howard for three years under an assumed name, was released to care for her child.[51]

The AFL-CIO had long complained about Howard, which employed about 2,600 of its members at the time of the arrests. News reports noted that union members resented the immigrants whom they said were "often allowed to work as much as 40 hours of overtime a week when other workers were discouraged from doing so. Robert Shaffer, head of the Mississippi AFL-CIO, said that members have long complained that companies in southern Mississippi hire illegal immigrants."[52]

Howard joined E-Verify in 2007, but it is not known how many of those arrested predated Howard signing up for E-Verify, which only checks new hires.[53] However, that has not stopped Mississippi Attorney General Jim Hood from investigating Howard further and determining whether Howard violated a state law signed by Gov. Haley Barbour, which as of July 1, 2008, requires state agencies and contractors to use E-Verify to check new hires' legal status. For other businesses, the new law takes effect on January 1, 2009.[54]

The new law punishes businesses found guilty of employing illegals with losing public contracts for up to three years and licenses to do business in Mississippi for one year. It is also a felony for an illegal to take a Mississippi job, with a fine of up to $10,000 and five years in state prison. Howard would only fall under the law, however, if it had state contracts and had hired an illegal since July 1, 2008, without vetting that employee through E-Verify. A state senator who sponsored the new law said this about liability: "If Howard used the E-Verify system to check those employees, then they're not liable if they checked out," said state Sen. Lee Yancy (R-Brandon), one of the authors of the new law.[55]

Shipley Do-Nuts Raid in Houston
The president of family-owned Shipley Do-Nuts based in Houston pled guilty on August 28, 2008, to hiring illegal workers. Three other current and former warehouse managers and supervisors pled guilty as well. Shipley had employed 27 illegals who were arrested earlier in August. The company will forfeit $1.3 million

— the value of the properties used to house some of the illegals — and be placed on probation, ICE has said. They would also work with immigration authorities to reform their hiring processes. The four men, including the President, each got six months probation and a total of $10,500 in fines. Shipley Do-Nuts, with more than 200 stores in Alabama, Arkansas, Louisiana, Mississippi, Tennessee, and Texas, had dormitories for its illegal workers.[56]

In this case, the company violated law by knowingly ignoring the illegality of its employees:

- On Nov. 4, 1998, Shipley Do-Nuts hired an illegal alien with the initials G.C. who later resided in company-provided housing and was provided with a Social Security number for his I-9 by Jimmy Rivera that was one number off from Rivera's true Social Security number. On July 23, 2004, this alien completed a new I-9 using a different Social Security number.

- In December 2007, an illegal alien with the initials R.C. (who was a minor) told Garcia that he had fake documents when he was hired. Garcia told him it was not a problem. An illegal alien with the initials J.D. said he told Garcia he did not have papers to work legally in the United States and was advised to ask other workers how to obtain fraudulent documents for employment.

- An illegal alien with the initials M.C. testified that all three managers (Rivera, Halsey, and Garcia) knew he was an illegal alien because he worked at the factory without papers from 2006 to 2008. M.C. was paid by Halsey. Beginning in 2008, M.C. was required to complete an I-9 Form and he provided fraudulent documents in order to do so.

The charges against the company arise from a criminal investigation initiated by ICE in January 2008 that included interviews with former employees and a thorough review and analysis of I-9 forms and Social Security Administration (SSA) "No Match" letters. I-9 forms require an employer to establish an employee's identity and verify their employment eligibility at the time they are hired. SSA No Match letters are sent to employers when reported Social Security numbers on W-2 forms do not match known Social Security numbers.

An enforcement action taken in April 2008 by ICE agents at the company's facilities on N. Main resulted in the administrative arrest of 27 illegal aliens employed by the company and living in company-provided housing located at or near the warehouse. ICE agents also recovered 42 No-Match letters sent by the SSA which placed the company on notice that the aliens did not have valid Social Security numbers.[57]

E-Verify Issues that Remain

Correcting Small Error Rates
For Those "Unconfirmed"
E-verify is not perfect yet. According to Westat's September 2007 report, on average 96 percent of employees attesting to be U.S. citizens were automatically confirmed as authorized to work; compared to 72 percent of lawful permanent residents, and 63 percent of aliens authorized to work.[58] SSA estimated in December 2006 that 4.1 percent (17.8 million out of 435 million) of its records contained discrepancies related to name, date of birth, or citizenship status; 12.7 million of these pertained to U.S. citizens. For U.S. citizens, the most prevalent problem was failure to indicate death status. Through the first half of 2007, E-Verify wrongly rejected naturalized citizens 9.8 percent of the time. Most of these were individuals who failed to change immigration status with SSA.[59] Work-authorized legal aliens were erroneously flagged 1.4 percent of the time, but not necessarily rejected from the system.[60]

Westat found that the accuracy of the databases held by USCIS and the backbone of checks on noncitizens had substantially improved, with about 60 million records able to be culled and provide verification information in seconds. However, the report finds that "the database used for verification is still not sufficiently up to date to meet the IIRIRA requirement for accurate verification."[61]

With Westat and SSA's analysis noted, in May 2008 DHS and SSA changed procedures pertaining to naturalized citizens. Instead of SSA holding these cases, they are now automatically referred to USCIS for direct resolution. If the individual is naturalized but failed to inform SSA, the SSA issue is considered moot for the purpose of authorization. That hire is no longer required to physically go to SSA and rectify records and get placed through the system without a flag. The system is thus streamlined and error rates for naturalized citizens — which was a legitimate concern in the Westat report — are being reduced.

According to government sources, Westat's 2008 report will show that error rates continue to be reduced.

Counterfeit Documents

E-Verify continues to improve its ability to identify identity theft and counterfeit documents. Assuring against fraudulent hires was a key goal of the 1996 law that created the Basic Pilot program under Section 403, which reads:

Limitation of requirement to examine documentation. — If the Attorney General finds that a pilot program would reliably determine with respect to an individual whether —

(i) the person with the identity claimed by the individual is authorized to work in the United States, and

(ii) the individual is claiming the identity of another person, if a person or entity could fulfill the requirement to examine documentation contained in subparagraph (A) of section 274A(b)(1) by examining a document specified in either subparagraph (B) or (D) of such section, the Attorney General may provide that, for purposes of such requirement, only such a document need be examined. In such case, any reference in section 274A(b)(1)(A) to a verification that an individual is not an unauthorized alien shall be deemed to be a verification of the individual's identity.[62]

The SSA also has been involved in fraud busting, and not just in regard to checks on SSNs. The Intelligence Reform and Terrorism Prevention Act of 2004 required SSA to add both death and fraud indicators to the SSN verification systems for employers, as well as State agencies issuing drivers licenses and IDs. In March 2006, SSA added death indicators to support employer and State agency checks. Fraud indicators were added in August 2007.[63]

Just a year ago, Westat reported on a pilot that was using photographs. That pilot is now fully embedded in E-Verify. Stored digital photos taken for immigration cards — permanent resident alien and green cards — are available for employers to cross-check against the immigration cards physically provided by hires as their primary ID. The Westat report explains:

The Web Basic Pilot is designed to be more effective than the paper Form I-9 process in deterring unauthorized employment. For instance, it detects counterfeit fraud in which the employee's

documents contain fictitious information. However, the current Web Basic Pilot cannot substantially improve employers' ability to detect fraud when borrowed or stolen documents with information that could reasonably appear to be related to the worker presenting them are used to prove work authorization nor when employers do not check work-authorization documents carefully, either by design or because of lax procedures. It also cannot detect counterfeit documents that contain information about work-authorized persons. Thus, the Web Basic Pilot program should decrease the ease with which noncitizens without work authorization can obtain employment but as currently designed will not eliminate the employment of such workers.[64]

In May 2008, DHS sought to address the longstanding problem of new hires presenting photo-substituted legitimate IDs for the purpose of attaining employment. DHS is now enabling access to a Photo Screening Tool that helps employers compare the photo on the ID presented to them with the photo taken by USCIS when the Employment Authorization Document or Permanent Resident Card ("Green Card") was issued by checking against images stored in DHS immigration databases.

E-Verify cannot verify drivers license, passport, or visa photos. Thus, false positives remain a concern for the system for the small percentage of those who can slip through the system with false Social Security numbers and a fake or stolen ID. The inclusion of U.S. citizen passport, foreign national visa photos, and drivers license photos is important to fully address ID theft that cannot be discerned without a biometric, that is, when all written information matches. Legal stumbling blocks will make this data hard to come by. The State Department has had controversies attached to protecting the privacy of its passport and visa data, and states are not required to provide or share digital image data relating to state-issued drivers licenses and IDs. Every step to protecting E-Verify from ID theft will enhance the program. Even without access to digital photos for nearly all applicants, the program is by no means demeaned. The fact remains that even a year ago E-Verify was verifying 94 percent of hires instantaneously, and is overall 99.5 percent accurate. What it does mean is that shoring up E-Verify against identity theft is, and will always be, an ongoing process.

Conclusion

E-Verify is helping the United States show that it is serious about border security. Employers are bound by the law to not hire illegal workers. Further, they have an incentive to join E-Verify to protect themselves from federal action, even though joining the program is not a full guarantee against federal action if illegal alien employment continues at an E-Verify-registered employer's facilities.

The program has proven itself in its short Web-based life, with the numbers indicating that E-Verify works: 94 percent receive immediate authorization and the 5 percent that never do reflect the same percentage that are illegally in the workplace now. An overall accuracy of 99.5 percent is about as robust as a government program can be at this stage of its development.

If a new administration works as hard on behalf of employers and protecting legitimate employees as this administration has in making E-Verify viable, employers will continue to join the program due to its accuracy, ease of use, and protection it provides businesses who seek to operate within the law from sanctions and embarrassing workforce disruptions from ICE raids. E-Verify will also gain increased support from the American people, whose jobs and national security will be better protected.

End Notes

[1] Online comment by Ginny Priborsky in response to "E-Verify: Is it about to die?" *HR Morning*, July 11, 2008, http://www.hrmorning.com/e-verify-is-it-about-to-die/.

[2] Terry Magyar, "E-Verify Program," Obama-Biden Community Blog, July 25, 2008, http://my.barackobama.com/page/community/post/terrymagyar/gGxmWN . The posting begins: "Unfortunately, Senator Menendez has but a hold on this free business resource. It enables businesses to verify the Social Security number of 'new hires.' It's quick and reliable. I suspect he is holding the program hostage, so he can bring MORE foreign workers into the country. This program not only supports the small business owner, but American workers and their families."

[3] The House of Representatives passed reauthorization language to extend E-Verify another five years by a vote of 407-2 in HR 6633, The Employee Verification Act of 2008, on July 31, 2008. Sen. Menendez (D-N.J.) has introduced a companion to HR 6633, but with additional provisions to increase certain immigration categories not related to E-Verify.

[4] USCIS E-Verify statistics from first half 2007, http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=f82d8557a487a110VgnVCM1000004718190aRCRD&vgnextchannel=a16988e60a405110VgnVCM1000004718190aRCRD , June 11, 2008.

[5] *Ibid.*

[6] As of May 2008, naturalized citizens no longer must take action to rectify their records as long as USCIS can establish legal status from USCIS alien files.

[7] DHS E-Verify Outreach, Aug. 4, 2008.

[8] USCIS E-Verify statistics from first half of 2007.

[9] *Ibid.*

[10] *Findings of the Web Basic Pilot Evaluation*, Westat Consulting, September 2007, p. 99, http://www.uscis.gov/files/article/WebBasicPilotRprtSept2007.pdf . Hereinafter referred to as the "Westat report." From p. 91: "Duplicate transactions involving SSNs two or more times totaled 744,038 of 3,480,655, with other duplicates of six or more times 20,999."

[11] Notice of Proposed Rulemaking, *Regulatory Impact Analysis for Employment Eligibility Verification (Federal Acquisition Regulation Case 2007-013)*, May 29, 2008. p. 12.

[12] Regulatory Impact Analysis, p. 37.

[13] USCIS E-Verify Program Highlights, July 16, 2008, http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=a16988e60a405110VgnVCM1000004718190aRCRD&vgnextchannel=a16988e60a405110VgnVCM1000004718190aRCRD.

[14] Stewart Baker, "Debunking the 'E-Verify Capacity Problem,'" *DHS Leadership Journal,* May 21, 2008, http://www.dhs.gov/journal/leadership/2008/05/debunking-e-verify-capacity-problem.html.

[15] Westat report, p. xxvii.

[16] DHS E-Verify Outreach, August 4, 2008.

[17] Kephart-DHS phone call, September 17, 2008.

[18] Westat report, p. xxvi.

[19] *Regulatory Impact Analysis*, p. 8.

[20] *Ibid.,* p. 34.

[21] For more complete information, see the FAQ on E-Verify at the National Conference of State Legislatures site, http://www.ncsl.org/programs/immig/EVerifyFAQ.htm.

[22] See "No Sanctions: Governments Haven't Fulfilled Promises to Punish Rogue Employers," Daniel Jester, Center for Immigration Studies, *Immigration Review* #33, Fall 1998, http://www.cis.org/articles/1998/IR33/no_sanctions.html.

[23] The Basic Pilot program was established by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), P.L. 104-208, signed September 30, 1996, citation: 8 U.S.C. 1324a.

[24] Westat report, p. xvii.

[25] See The Basic Pilot Program Extension and Expansion Act of 2003, Public Law 108-156.

[26] H.R. 6633, Employee Verification Amendment Act of 2008, http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=110_cong_bills&docid=f:h6633ih.txt.pdf , July 28, 2008. This bill reauthorizes E-Verify for five years, until December 31, 2013; assures that SSA recoups its expenses for E-Verify IT-related expenses; and requires the General Accounting Office (GAO) to conduct two reports within two years, one on error rates pertaining to false negatives in the system and another on the cost to small businesses of implementing E-Verify.

[27] Sen. Grassley's bill would do the following: (1) Make permanent the E-verify program; (2) Require all contractors of the federal government to use the E-verify program; (3) Give employers the option to verify the status of existing employees as well as new hires and allow DHS to require companies to use the E-verify program if a pattern of illegal hiring is found; (4) Require U.S. Citizenship and Immigration Services to provide a monthly report to Immigration and Customs Enforcement listing the non-authorized checks that should be investigated; (5) Require USCIS to create a pilot project that will provide opportunities for small businesses to use the E-verify program as well as others in rural areas without Internet access; (6) Require employers to re-verify employees who are in the United States on temporary status; (7) Formally change the name of the program from the Basic Pilot program to the E-verify program.

[28] S. 3257, Legal Immigration Extension Act of 2008, a bill to extend immigration programs to promote legal immigration and for other purposes, http://thomas.loc.gov/cgi-bin/query/z?c110:S.3257, July 11, 2008. This extension bill would extend the life of the EB-5, Conrad 30,

E-Verify, and special immigration religious worker programs. All these programs will lose authorization if not renewed this Congress. For E-Verify, the bill simply mimics the House-passed legislation extending E-Verify five years until December 31, 2013, and officially changes its program title from "Basic Pilot" to "E-Verify."

[29] Executive Order 13465, "Amending Executive Order 12989, as Amended," June 6, 2008, http://www.presidency.ucsb.edu/ws/index.php?pid=77501&st=12989&st1=.

[30] Executive Order 12989, "Economy and Efficiency in Government Procurement Through Compliance With Certain Immigration and Naturalization Act Provisions," February 13, 1996, http://www.presidency.ucsb.edu/ws/index.php?pid=52395&st=12989&st1=.

[31] Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA), "FAR Case 2007-013, Employment Eligibility Verification," Federal Acquisition Regulation 48 CFR parts 2, 12, 22, and 52, http://www.wileyrein.com/docs/docs/172.pdf, June 12, 2008.

[32] Quotation from Randel K. Johnson, vice president and spokesman for the U.S. Chamber of Commerce, in Spencer S. Hsu, Alejandro Lazo, and Darryl Fears, "Businesses Cite a Catch-22 After Miss. Immigration Raid," *The Washington Post*, August 28, 2008.

[33] Westat report, p. xxi.

[34] *Ibid.*

[35] Regulatory Impact Analysis, pp. 8-27.

[36] Westat report, p. xiv.

[37] "Peer Review of Regulatory Impact Analysis: Federal Acquisition Regulation Case 2007-013 (Employment Eligibility Verification)," Richard Belzer, August 11, 2008, http://www.uschamber.com/NR/rdonlyres/e5sr7u5pgg4ksd372hutfkh4hhgno5qzgtvospdmd4ebcrq3emgyjz7c5qrrahjvzjcjafkhbiochty7mlkksdublvc/080811everify_appendix.pdf.

[38] "ICE agents execute thirteen federal arrest warrants connected to worksite enforcement investigation," ICE News Release, July 28, 2008, http://www.ice.gov/pi/nr//0807/080728littlerock.htm.

[39] "Immigration Raid - Agriprocessors, Inc in Postville, Iowa," iReport, May 17, 2008, http://www.ireport.com/docs/DOC-22605.

40 *Ibid.* Numbers as of May 15, 2008:
697 - Number of criminal complaints Immigration and Customs Enforcement had lined-up before the operation.
390 - Original detainees after ICE operation.
304 - Detainees that had Initial Appearances.
072 - Detainees that were not part of the 697 original criminal complaints.
005 - Number of detainees charged with Illegal Re-entry after Deportation.
076 - Number of detainees charged with Document Fraud.
225 - Number of detainees charged with Misuse of Social Security numbers.
231 - Number of detainees charged with Aggravated Identity Theft.

41 "Two alleged supervisors arrested at Agriprocessors in Postville: Public's assistance sought in locating third defendant," ICE News Release, http://www.ice.gov/pi/nr/0807/080703cedarrapids.htm , July 3, 2008.

42 Grant Schulte, "Postville plant supervisor faces prison term," Des Moines Register, August 21, 2008.

43 "Iowa: Guilty Plea in Immigration Case," The Associated Press, August 27, 2008.

44 "ICE agents execute thirteen federal arrest warrants connected to worksite enforcement investigation," ICE News Release, http://www.ice.gov/pi/nr//0807/080728littlerock.htm , July 28, 2008.

45 Matt Andrejczak, "Feds arrest workers at Pilgrim's Pride plants," MarketWatch, http://www.marketwatch.com/news/story/feds-arrest-workers-pilgrims-pride/story.aspx?guid={948EF67F-1667-4BE9-83C3-E8D65D050B45}, April 16, 2008.

46 "13 suspected illegal aliens caught in raid," The Associated Press, July 24, 2008.

47 "ICE agents execute thirteen federal arrest warrants connected to worksite enforcement investigation," ICE News Release, http://www.ice.gov/pi/nr//0807/080728littlerock.htm , July 28, 2008.

48 "13 suspected illegal aliens caught in raid, The Associated Press, July 24, 2008.

49 "Feds: Stolen IDs found in raid; Eight suspected illegal immigrants accused of using identities to gain employment," *Clarion Ledger,* August 28, 2008.

50 "595 arrested in ICE and Department of Justice joint immigration enforcement action initiated at Mississippi transformer manufacturing facility: Approximately 106 identified with humanitarian issues, eight charged criminally," ICE News Release, http://www.ice.gov/pi/nr/0808/080826laurel.htm?searchstring=howard%20AND%20industries , August 26, 2008.

51 "Feds: Stolen IDs found in raid; Eight suspected illegal immigrants accused of using identities to gain employment," *Clarion Ledger*, August 28, 2008.

52 *Ibid.*

53 Howard Industries released this comment on the raid: "Howard Industries runs every check allowed to ascertain the immigration status of all applicants for jobs. It is company policy that it hires only U.S. citizens and legal immigrants."

54 "Hood to decide if Howard Industries broke Miss. Law," The Associated Press, *Clarion Ledger,* September 5, 2008.

55 *Ibid.*

56 "Houston-area donut company, its president and 3 managers plead guilty to immigration violations: Shipley Do-Nut Flour and Supply Company agrees to pay $1.334 million," ICE New Releases, http://www.ice.gov/pi/nr/0809/080905houston.htm, September 5, 2008.

57 *Ibid.*

58 Westat report, p. 148.

59 "Accuracy of the Social Security Administration's Numident File," SSA OIG, Congressional Response Report A-08-06-26100, December 2006, http://www.socialsecurity.gov/oig/ADOBEPDF/audittxt/A-08-06-26100.htm.

60 Westat report, p. xxv.

61 Westat report, p. xxi.

62 110 STAT. 3009, Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Title IV — Enforcement of Restrictions Against Employment, Sec. 403 — Procedures for Participants in Pilot Program, September 30, 1996.

63 "Inspector General Statement on the Social Security Administration's Major Management Challenges" SSA OIG, November 2007, p. 5, http://www.ssa.gov/oig/ADOBEPDF/A-02-08-18061.pdf.

64 Westat, p. xxiv.

Backgrounder

If It's Fixed, Don't Break It
Moving Forward with E-Verify

By Janice L. Kephart

The E-Verify program is well on its way to fixing a 20-year-old problem of determining legal employment eligibility in a manner employers can support. Arguably E-Verify is the most successful programmatic upgrade to U.S. interior border systems, assisting employers in abiding by the law and weeding out those that don't. Fast, efficient, and easy to use, E-Verify helps employers have confidence that their hiring choices are within the law and less likely to be disrupted by a worksite raid. Enabling employers to make better decisions about the legality of their hires also helps the federal government better prioritize enforcement tools. Illegal immigrants are dissuaded from applying for jobs that use E-Verify, thus making it less likely — the more prevalent in use E-Verify becomes — that illegals will settle into a job, only later to be arrested and land in deportation hearings that lead to family disruption while simultaneously draining enforcement and immigration court resources.