**Fact Sheet: E-Verify**

*What is E-Verify?*

**E-Verify is an online system in which employers** can check their employee's work eligibility. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 created E-Verify as a pilot program. The pilot program was implemented as a voluntary program in California, Florida, Illinois, Nebraska, New York and Texas. The E-Verify program has since been repeatedly renewed by Congress and subsequently expanded. E-Verify is now available in all 50 states and is mandatory for all federal employers and contractors. Currently over 750,000 employers are enrolled in the E-Verify program.

*Is E-Verify mandatory?*

**For most employers, E-Verify is voluntary** and the overwhelming majority of the nation's 18 million employers do not participate in the E-Verify program.

**By law, E-Verify is mandatory for the federal government, as well as federal contractors and subcontractors**. In addition, 24 states have passed laws to require employers utilize E-Verify to varying degrees. Seven states have E-Verify laws that require all or most employers to use E-Verify including Arizona, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Utah.

*Which industries use E-Verify the most?*

| Rank | Industry | Hiring Sites |
|---|---|---|
| 1. | Professional, Scientific, and Technical Services | 313, 916 |
| 2. | Food and Drink Services | 202,022 |
| 3. | Administrative and Support Services | 112,961 |
| 4. | Specialty Trade Contractors | 102,100 |
| 5. | Social Assistance | 81,975 |
| 6. | Ambulatory Health Care Services | 72,464 |
| 7. | Management of Companies and Enterprises | 67,747 |
| 8. | Religious, Grantmaking, Civic, Professional and similar organization | 66,493 |
| 9. | Credit Intermediation and Related Activities | 65,775 |
| 10. | General Merchandise Stores | 62,338 |

**As of June 30, 2018

Source: https://www.e-verify.gov/about-e-verify/e-verify-data/e-verify-usage-statistics

### How does E-Verify work?

Once an employee is hired, employers participating in E-Verify ask their employees to fill out an [I-9 form](#) or an Employment Eligibility Verification Form (name, social security number, address, and date of birth) and E-Verity's software [checks these forms against records](#) from the Social Security Administration (SSA) and the Department of Homeland Security (DHS). The software verifies the employee's identity and employment eligibility by providing the employer with results instantaneously or within the next 24 hours.

The employer will either receive a notification that their employee is authorized to work or, if the information the employee provided does not match information in the government's databases, the employer will receive a tentative non-confirmation (TNC). The employee has eight business days to contest the TNC with the government. If an employer fails to contest the TNC or the TNC is contested unsuccessfully, then the TNC is converted into a final non-confirmation (FNC) and the employee is deemed ineligible to work. The employer is required to fire an employee who has received a FNC, or will face a $500-$1200 fine for each FNC worker they employ. The [fine is determined by](#) the employer's size, history of previous violations, and demonstration of good faith in attempting to comply, as well as the seriousness of the violation.

### Is E-Verify Accurate?

**E-Verify's error rate has improved greatly since the system was initially developed, but it is not perfect.** Mistakes still affect thousands of workers and employers each year. E-Verify in its current form has barred thousands of legal workers from working. Due to governmental error, mistakes in the spelling of people's names, the use of a married name, or other database discrepancies, individuals have been flagged and received nonconfirmations [preventing them from working](#).

The most recent available statistics of the system's performance are from the government's fiscal year (FY) 2017.  Out of [34,853,666 cases](#), E-Verify returned a TNC for 1.1 percent (or 383,390 cases). United States Citizenship and Immigration Services (USCIS) stated that 0.15 percent of E-Verify searches resulted in erroneous TNCs being issued, which is equivalent to 13.6 percent of TNCs or 52,280 employees. This number does not account for the people that did not contest their TNC. USCIS has not included the erroneous *final* non-confirmation (FNC) rate in their performance report since 2009. However the Cato Institute [estimated the erroneous FNC rate](#) based off of its correlation to the TNC error rate. In FY 2016, the Cato Institute estimated that 0.03 percent of all E-Verify queries ended with an erroneous FNC. Applying this estimate to the numbers from FY 2017 this means that approximately 10,000 people who ought to have been eligible to work in the United States were mistakenly barred from employment.

### *What is the appeals process?*

Employers are [responsible for notifying the employee of the TNC](#) as soon as they receive the result. When an employee is flagged as a TNC, the relevant government agency, either SSA or DHS – sends the employer a form called a Further Action Notice. The Further Action Notice gives the employer instructions on their duties in informing their employee of a TNC and informs the employee why he or she received a TNC and what steps are available to challenge it. After an employee receives a Further Action Notice from his or her employer about the TNC, he or she must check to make sure the name, birth date, and Social Security number listed are correct in the E-Verify program and must inform the employer of any errors.

Once the employee decides whether or not he or she wants to contest the TNC, the employer must refer the employee's case to whichever agency issued the Further Action Notice, either SSA or DHS. If the employee decides to contest the TNC, he or she must visit SSA or contact DHS within eight federal workdays and inform the employer of the decision. They must then wait for their employer to receive their results. Employers cannot fire their employees while they are completing the appeals process. Once the employee receives a final non-confirmation, the employer closes the case in E-Verify and must indicate whether the employee was terminated.

### *If Congress made E-Verify mandatory, what would the impact be?*

**Moving to mandatory E-Verify would pose significant burdens on both employers and employees.**

Tens of thousands of legal workers would be prevented from getting new jobs due to errors in the system. If employers were required to submit their current workforce through E-Verify the impact would be even greater. While individuals affected by E-verify errors are only a fraction of the workforce, they face significant hardships. Barred from working through no fault of their own, they are unable to earn a living or support their families, at least until they can clear up these errors. Such individuals have limited recourse to correct the errors and be made whole. And those who are able to win lawsuits against the government over such errors, often do so long after the fact, potentially months or years after being prevented from working, and already having suffered significant harm.

Unless mandatory E-Verify is accompanied by guest worker and visa reform provisions sufficient to meet employer demand, industries that have a shortage of legal workers will face serious worker shortages. Employers would essentially be faced with a choice between breaking the law, operating with dramatic labor shortages, or outsourcing to other countries that have sufficient workers. Moving to mandatory E-Verify would also impose significant costs on employers, who would need to devote time and resources to worker verification. While this cost might be marginal for some employers, particularly larger employers with fully-staffed human resources departments, it would likely to lead to hardship for smaller employers.