

TUTORIAL

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MODULE 1

Privacy and Data Protections

Employers, E-Verify employer agents, and users are responsible for ensuring that all personal information collected is safeguarded and used only for the purposes outlined in the E-Verify Memorandum of Understanding (MOU).

Failure to properly protect employee information can result in identity theft or fraud and can cause considerable inconvenience, harm or embarrassment to the employees or employer affected.

At a minimum, follow the steps below to protect personal information and comply with the appropriate regulations.

- **Allow only authorized users to use E-Verify.** Ensure that only the appropriate users handle information and create E-Verify cases.
- **Secure access to E-Verify.** Protect passwords used to access E-Verify and ensure that unauthorized users do not gain access to the system.
- **Protect and store employee information properly.** Ensure that employee information is stored in a safe and secure location. Ensure that only authorized users have access to this information.
- **Discuss E-Verify results in private.** Ensure that case results are discussed in private with the employee.

Employee Civil Rights and Civil Liberties

It is the employer's and employer agent's responsibility to treat employees equally and fairly when using E-Verify.

Employers and employer agents participating in E-Verify MUST:



- Create a case in E-Verify only AFTER the applicant accepted an offer of employment and Form I-9, Employment Eligibility Verification is complete.
- Create an E-Verify case for all newly hired employees, regardless of citizenship.
- Notify each job applicant of E-Verify participation and employee rights.
- Use E-Verify for an existing employee only when he or she is assigned to a federal contract or if your company chose to verify its existing workforce.
- Verify all new employees and existing employees assigned to a federal contract regardless of national origin, citizenship, or immigration status.
- Provide each employee who receives a Tentative Nonconfirmation (TNC) the Further Action Notice (FAN) in private and the opportunity to contest the TNC. Ensure employees who contest a TNC are promptly given the printed Referral Date Confirmation.
- Ensure no change in the working conditions (pay, hours, etc.) of employees who contest a TNC.

Employers and employer agents participating in E-Verify MUST NOT:

- Use E-Verify to pre-screen an applicant for employment.
- Use E-Verify to discriminate against ANY job applicant or new hire on the basis of his or her national origin, citizenship or immigration status.
- Selectively verify the employment eligibility of a newly hired employee.
- Delay a start date for any employee who receives a TNC.
- Take any adverse action (reduce pay, reduce hours, terminate or suspend, etc.) against an employee because of a TNC unless and until E- Verify issues a Final Nonconfirmation, even if the resolution of the TNC takes longer than 10 days.



Rules and Responsibilities Overview

Employers and employer agents participating in E-Verify MUST:

- Follow E-Verify procedures for each newly hired employee while enrolled/participating in E-Verify.
- Inform each job applicant about the employer's participation in E-Verify and employee rights.
- Clearly display the 'Notice of E-Verify Participation' and 'Right to Work' posters in all languages supplied by DHS.
- Complete Form I-9 for each newly hired employee before creating a case in E-Verify.
- Promptly provide each employee who receives a TNC Further Action Notice with the opportunity to contest a TNC.
- Provide each employee who receives a TNC eight federal government work days to contest it (i.e., contact the appropriate federal agency to begin to resolve the TNC).
- Allow each newly hired employee to start and continue working during the E-Verify verification process, even if he or she receives and contests a TNC, and even if it takes longer than ten days to resolve the TNC.

Federal contractors participating in E-Verify MUST also:

- Only use E-Verify for an existing employee under limited circumstances.
- Use special considerations when you decide how to, and whether to verify an existing employee.
- Create a case only within a specified period of time. If a case is not created within these timeframes, you must note the reason for delay and attach it to Form I-9.
- Follow E-Verify procedures for each newly hired employee and an existing employee

assigned to a covered federal contract while participating in E-Verify. *For more information about rules specific to Federal contractors, review the 'Supplemental Guide for Federal Contractors.'*

Employers and E-Verify Federal contractors participating in E-Verify MUST NOT:

- Use E-Verify to pre-screen an applicant for employment. Prescreening is creating an E-Verify case before a job offer is made or before an employee has accepted a job offer.
- Take any adverse action against an employee because of a TNC unless and until E-Verify issues a Final Nonconfirmation.
- Specify or request which Form I-9 documentation a newly hired employee must use.
- Use E-Verify to discriminate against ANY job applicant or employee on the basis of his or her national origin, citizenship or immigration status.
- Share any user ID and/or password.

Privacy Breaches and Rights violations

Report all suspected or confirmed privacy breaches by calling 888-464-4218 or emailing E-Verify@dhs.gov. Please use 'Privacy Incident – Password' in the subject line of the email when sending a breach report to E-Verify.

Questions regarding how to avoid unfair and discriminatory verification practices when using E-Verify should be directed to the Office of Special Counsel for Immigration Related Unfair Employment Practices at osccrt@usdoj.gov, 800-255- 8155 or 800-237-2515 (TTY).

MODULE 2



E-Verify Overview

The Web services employment eligibility verification process begins with a completed Form I-9. E-Verify makes employment eligibility determinations by comparing the employee's Form I-9 information entered in E-Verify by the employer with the information in records available to the Social Security Administration (SSA) and/or Department of Homeland Security (DHS).

When E-Verify checks the employee's information with records available to SSA and/or DHS, a case result is provided. Case results can be initial, interim or final. Proper use of E-Verify requires users to close all cases when they receive final case results.

Federal Contractor Requirements

Form I-9 requirements for all employees are outlined in the 'Handbook for Employers: Guidance for Completing Form I-9 (M-274).' Federal contractors should also review the 'E-Verify Supplemental Guide for Federal Contractors' for more detailed information.

Employers and employer agents create cases for all employees ONLY after:

- A job has been offered;
- The applicant has accepted the position; and
- The Form I-9 has been completed.

Federal contractors must follow specific rules related to Form I-9 and existing employees. These rules include how to:

- Verify existing employees;
- Comply with certain expired documents; and
- Use Photo Matching.

Form I-9 and E-Verify

All employers are required to ensure timely and proper completion of Form I-9 when the employee starts work for pay and to keep records of the forms on file. This requirement also applies to federal contractors enrolled in E-Verify.

Many E-Verify employers voluntarily choose to take the additional step of verifying that their employees' Form I-9 information matches government records, thereby ensuring a legal workforce.

Hire Date

The hire date is the first day of employment in exchange for wages or other remuneration, previously referred to as the date on which the employee began employment.

If the employer rehires an employee for whom an E-Verify Web services case was never created and the employee's previous Form I-9 lists an expired identity document (List B), then a new Form I-9 must be completed and an E-Verify case created for the employee using the re- hire date as the date of hire.

If the employer rehires an employee for whom an E-Verify case was previously created and the employee's previous Form I-9 lists an expired identity document (List B), then the employer or employer agent may either:

- Complete Section 3 of the employee's previous Form I-9 and do not create a new case for the employee **OR**

- Complete a new Form I-9 for the employee and create a new case for the employee.

NOTE: Employees hired on or before November 6, 1986 are not subject to Form I-9. Therefore, employers may not create E-Verify cases for these employees based on this employment.

For more information, consult the 'Handbook for Employers: Guidance for Completing Form I-9 (M-274).'



Check Information Screen

If the information entered does not immediately match records available to Social Security Administration (SSA) and/or U.S. Department of Homeland Security (DHS) the 'Check Information' screen appears so that you can confirm that the information was entered correctly.

The employer or employer agent may either confirm that the information matches Form I-9 or correct information in certain fields.

The employer or employer agent then confirms that the information presented is correct. If a mistake was made in a field that cannot be updated, the case will need to be closed.

Error: Unexpired Document Required

Any document presented by an employee for Form I-9 must be unexpired on its face (see exception below). If the document entered into E-Verify was expired when the employee was hired, E-Verify will reject the document information and not create a case. The employee will need to present acceptable unexpired document(s) and you will need to update Form I-9 before you can create a case in E-Verify.

Just because the employee presented an expired document does not mean that the employee is not authorized to work. E-Verify will confirm the employment eligibility of this employee once you obtain an unexpired document and create the case.

In limited situations for Form I-9, you may accept a document that appears expired on its face. When a Temporary Protected Status (TPS) designation for a particular country is extended, DHS sometimes automatically extends the expiration date of Employment Authorization Documents (EAD, Form I- 766) issued to affected TPS beneficiaries via notice published in the *Federal Register*. *For information on this exception, visit www.uscis.gov/tps*.

Photo Matching

Photo matching is an additional step that prompts employers and employer agents to

compare an employee's photo ID with a photo displayed in E-Verify. Photo matching only occurs when the employee presents:

- A Permanent Resident Card (Form I-551)
- Employment Authorization Document (Form I-766)
- A valid U.S. Passport or U.S. Passport Card

If the employee presents one of these documents, the employer or employer agent must copy the document and retain it with Form I-9.

NOTE: Do not ask employees to present any specific document from the list above to enable use of the photo matching.

Do not compare the photo displayed by E-Verify Web services to the employee directly. Direct comparison between the document and the individual should have occurred during Form I-9 completion, prior to using E-Verify Web services access.

Request Name Review

In some cases, E-Verify Web services issues a case result of 'Employment Authorized,' but the name returned does not match exactly the name on Form I-9. This happens when the information matches but there are name variations in DHS records.

MODULE 3

Initial Case Results

Initial Case Result

Initial case results display in E-Verify once an employee's information has been submitted as part of a verification case.



Employment Authorized

An employment authorized result means the employee's information matched records available to SSA and/or DHS.

SSA or DHS Tentative Non confirmation(TNC)

An SSA or DHS TNC means the information does not initially match records available to SSA and/or DHS.

DHS Verification in Process

A DHS Verification in Process means the case is referred to DHS for additional verification. No action is required until further notice from E-Verify.

Interim Case Results

Interim Case Result

An interim case result requires additional action before E-Verify provides a final case result to complete the verification process.

SSA and DHS TNC

An SSA or DHS TNC result means information did not match records available to SSA and/or DHS. Additional action is required.

Review and Update Employee Data

A Review and Update Employee Data result is a prompt for the employer or employer agent to review, update and resubmit the employee’s Form I-9 information.

DHS Verification in Process

A DHS Verification in Process result means the case is referred to DHS for further verification.

SSA or DHS Case in Continuance

A SSA or DHS Case in Continuance result means the employee has contacted SSA or DHS, but more time is needed to determine a final case result.

MODULE 4

Tentative Non confirmation (TNC)

A TNC case result occurs when the information entered into E-Verify was compared to government records available to SSA and/or DHS and could not be verified. This does not mean the employee is not authorized to work. While resolving TNCs, employees must be allowed to work without any change in working conditions, regardless of how long the resolution process takes.

A DHS TNC may occur because the employee's:

- Name, Alien number, I-94 number and/or foreign passport number are incorrect in DHS records
- U.S. Passport, Passport Card, driver's license, foreign passport or state ID card information could not be verified
- Information was not updated in the employee's DHS records
- Citizenship or immigration status changed
- Record contains another type of error
- Information was not entered correctly by the employer
- Information was not entered correctly on the Form I-9

An SSA TNC data mismatch may occur because the employee's:



- Citizenship or immigration status was not updated with SSA
- Name change was not reported to SSA
- Name, Social Security number or date of birth is incorrect in SSA records
- SSA record contains another type of mismatch
- Information was not entered correctly by the employer
- Information was not entered correctly on the Form I-9

Final Case Results

Employment Authorized

An Employment Authorized final case result means the employee's information matched records available to SSA and/or DHS.

SSA or DHS Final Nonconfirmation

An SSA or DHS Final Nonconfirmation result means E-Verify cannot verify an employee's employment eligibility after the employee has visited SSA or contacted DHS.

DHS No Show

A DHS No Show result means that the employee did not contact DHS within the required **eight** federal government workdays.

Error: Close Case and Resubmit

A Close Case and Resubmit Error means the case cannot continue because the expiration date entered for the employee's U.S. Passport, Passport Card or driver's license is incorrect. This case must be resubmitted.

Case Closure Statements

Employers MUST close every case created in E-Verify. Each case is closed by using the applicable case closure statement.