

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

This document summarizes the major findings and recommendations from a report authored by the Westat Corporation dated June 2011 entitled *Findings of the Case Study of E-Verify Employer Agents and Their Clients*. U.S. Citizenship and Immigration Services (USCIS) retained the services of Westat, a social science research firm, to evaluate the E-Verify Program. Westat has over 15 years of experience evaluating the E-Verify Program. The primary goal of the case study was to explore the relationships between E-Verify Employer Agents (EEAs)¹, their clients, and the E-Verify Program. An EEA is an individual or company that processes E-Verify cases on behalf of employers. The evaluation focused on program administration, compliance with E-Verify requirements, challenges of EEAs and their clients, satisfaction levels of EEAs and clients, and suggestions for improving E-Verify. Telephone interviews were conducted in 2010 with 33 EEAs (12 Direct Connect and 21 Web Services EEAs²) and 49 clients of EEAs.

KEY FINDINGS

Use of EEAs

- **The substantial growth in the number of EEAs and increased usage of the Program by EEAs demonstrate that EEAs have a large presence in E-Verify.** The total number of EEAs submitting cases increased from 11 in FY 2005 to 4,127 in FY 2009. The percentage of total E-Verify cases transmitted by EEAs grew from 1.4 percent in FY 2005 to 40.9 percent in FY 2010.
- **Clients primarily chose to use EEAs because they lacked sufficient time or staff to administer E-Verify themselves** or because they were required to use E-Verify under a local, state, or federal mandate.
- **The majority of clients used EEAs with which they already had a business relationship,** such as for providing human resources services, background screening, and/or payroll services.
- **Most EEAs charged clients a fee per E-Verify transaction, with the majority using a sliding scale based on the volume of transactions.** Other methods of charging included a flat monthly or yearly fee or a charge based on other services used. Four EEAs grouped E-Verify with other services provided to clients and did not charge an additional fee.

Training of EEA staff and clients on E-Verify Procedures

¹ E-Verify Employer Agents were until recently known as Designated Agents (DAs)

² A Direct Connect EEA uses the Web browser that was built and is maintained by USCIS to process E-Verify cases for a client. A Web Services EEA builds and maintains its own interface with the E-Verify Program that meets USCIS specifications.

- **The majority of EEA staff members that provided E-Verify services received training both from USCIS and outside sources but desired additional training.** Nearly all EEAs reported that their staff completed the E-Verify tutorial and mastery test, and the majority reported their staff had additional training from other sources.
- **All EEAs also thought a USCIS helpline or resource desk dedicated to EEAs would be useful and supported the development of a compilation of EEA best practices.**
- **EEAs provided training for clients primarily on E-Verify and internal procedures.** Most EEAs reviewed the E-Verify timeframe and submission procedures with their clients, and half reviewed I-9 forms and worker documents. EEAs relied on USCIS materials, internally-developed training materials, or both, for training.
- **Based on training from both their EEAs and outside sources, most clients considered themselves to be knowledgeable about E-Verify.**
- **A majority of EEAs and nearly all clients agreed that companies should be certified before becoming EEAs** to ensure EEAs are knowledgeable, legitimate, and capable of providing quality service.
- **Due to the steps involved in the EEA process, both clients and EEAs found the three-day requirement to initiate the E-Verify query within three days of the employee starting employment to be burdensome,** especially for clients with remote hiring sites. Since both the number of EEAs and the number of cases submitted by EEAs are increasing, a three-day standard is difficult to meet.

How EEAs and Clients Work together

- **Most clients reported being familiar with the E-Verify Memorandum of Understanding (MOU).** Most clients reported that their EEA explained the MOU when they registered for E-Verify services.
- **The majority of EEAs reported that clients alone were responsible for examining workers' I-9 documents.** The majority of EEAs received copies of Form I-9 documents from clients by fax, e-mail, mail, or through a secure website.
- **The majority of EEAs and clients reported that clients sent worker information to EEAs after workers were hired,** in compliance with E-Verify procedures. However, some clients had difficulty submitting worker information in a timely manner, most often due to having remote or multiple locations.
- **Clients were almost always responsible for notifying workers of a Tentative Nonconfirmation (TNC).** Most EEAs reported providing clients with instructions on how to properly notify workers of TNC findings.

- **One of the conditions of E-Verify is that workers are allowed to continue to work while contesting a TNC. The vast majority of clients in this study reported they allowed workers to continue to work while contesting a TNC finding.** Also, the vast majority of EEAs reported explaining to their clients that they should not take any adverse action against workers who contest a TNC finding.
- **A majority of clients reported that while it was their responsibility to explain rights to workers, they could not conclusively state that workers understood their rights.** Fourteen of 48 clients believed workers understood their rights, thirteen believed they had limited understanding, and thirteen were unsure.

EEA and Client Satisfaction with the E-Verify Program

- **EEAs were generally satisfied with the E-Verify program.** The majority of EEAs were also satisfied with the level and quality of communication from USCIS, but nearly half preferred more frequent communication.
- **Almost all clients were satisfied with their EEA's E-Verify services and planned to continue using EEA services.**
- **The challenge most frequently reported by EEAs was ensuring clients' compliance,** such as sending in paperwork or entering new hires into a Web interface within three days, entering workers only after they were hired, entering all new hires, and clearly communicating the TNC process to workers. Additionally, Web Services EEAs mentioned programming difficulties caused by frequent changes to the E-Verify platform without sufficient notice.

RECOMMENDATIONS

Westat's recommendations are summarized below. USCIS has noted in *italics* steps it has taken, or will be taking, to address these recommendations.

- **Increase outreach to EEAs to make them aware of existing materials that address their specific needs.**

Since the time that Westat conducted the EEA research, USCIS developed two online resources for the EEA community: The [E-Verify Employer Agent User Manual](#) and the [Quick Reference Guide for Clients of E-Verify Employer Agents](#). USCIS routinely sends reminders of the availability of these manuals through the E-Verify Connection newsletter and other outreach vehicles such as the website, webinars, presentations, and updates on the E-Verify login page. The USCIS E-Verify Outreach team also maintains an e-mail list specifically for EEA users and holds EEA user-specific teleconferences to provide targeted updates and information.

- **Extend the three-day rule to five days for EEAs and clients.**

While respondents to this study articulated reasons they would prefer to have more time to enter worker information into E-Verify, the three-day rule is statutory and cannot be extended without congressional action. See Sec. 403(a)(3) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (8 U.S.C. 1324a note). Information in USCIS training materials and webinars helps clarify this responsibility for EEAs and all employers.

- **Develop a certification process and disseminate information to be shared among EEAs.**
If certification is not feasible, USCIS could provide a public, searchable database of registered EEAs that have completed the mastery test.

USCIS already has a public, [searchable database](#) of E-Verify employers and can add search criteria to identify EEAs that have successfully completed the mastery test. USCIS has commissioned a separate evaluation to examine gaps in EEA service delivery for Web services applications. USCIS is considering whether a certification process should be established.