# EVALUATION OF THE ACCURACY OF E-VERIFY FINDINGS

**July 2012**

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Washington, DC

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# CONTENTS

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# EXECUTIVE SUMMARY

## 1. BACKGROUND

This document summarizes the major findings and recommendations from the report, *Evaluation of the Accuracy of E-Verify Findings.* This report builds on previous evaluations of the E-Verify Program, which electronically verifies the employment-authorization status of new hires and certain other employees of participating employers.[1] The Basic Pilot Program, now referred to as E-Verify, was originally authorized under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). Its authorization has been extended several times since then and the Program has been expanded in scope and modified considerably based, in part, on earlier evaluation report findings which are available on the U.S. Citizenship and Immigration Services (USCIS) website.

The E-Verify legislation specified that the goal of the Program is to *reduce* unauthorized employment without undue burden on employers or contributing to discrimination. The last independent evaluation documented that E-Verify appears to be effective in reducing unauthorized employment with only minimal burden on most employers and almost always finds employment-authorized workers to be employment authorized. The report also documented that the accuracy of E-Verify for employment-authorized workers has been increasing over time.

Although the evaluation had overall positive findings about the accuracy of E-Verify for employment-authorized workers, USCIS requested an evaluation focusing specifically on the accuracy of E-Verify to identify ways that E-Verify accuracy can be further improved. This continuing interest in improving the Program is driven by both a desire to further reduce the Program's burden on employers and workers and by evaluation statistics indicating that some subgroups, such as employment-authorized noncitizens, have accuracy rates much lower than the overall rate.

This report examines E-Verify accuracy for noncitizens compared to citizens, for the steps in the E-Verify process (automatic review, USCIS second-level review, and Tentative Nonconfirmation (TNC) resolution), and for unauthorized workers. It also looks at the types of initial case findings that are most likely to result in Final Nonconfirmations (FNCs) being issued to employment-authorized workers.

The intended audience for this report consists of individuals who are familiar with E-Verify and wish to obtain a greater understanding of the accuracy of the Program. The report is designed for readers with a basic understanding of research methods and statistics. Methodological information likely to be of interest to general readers is available in the findings chapters and additional information for readers with more advanced technical skills is contained in the appendices.

## 2. METHODOLOGY

The most important quantitative data source for this report was the Transaction Database, which provides information on employer use of the E-Verify Program and case outcomes derived from the actions of employers and the Federal government that are input into E-Verify during the verification process. Since the source databases were designed to address Department of Homeland Security (DHS) and Social

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[1] See Westat, *Findings of The E-Verify® Program Evaluation*, December 2009, for the most recent comprehensive evaluation (http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=3a351e56d3856210VgnVCM100000082ca60aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD).

Security Administration (SSA) administrative needs and program goals rather than to meet evaluation needs, the original Transaction Database required complex file manipulation and cleaning before it could be used for the evaluation. Most of this report uses data for the 8.2 million cases submitted in fiscal year (FY) 2009.

This report also relies heavily on a series of semi-structured interviews with Federal staff and contractors conducted between October 2009 and May 2011. In addition, several documents were reviewed for the evaluation, including manuals used by SSA, USCIS, and Customs and Border Protection (CBP) staff that explain the procedures for using E-Verify, employer and worker materials used in E-Verify, logs maintained by the Office of Special Counsel (OSC) within the Department of Justice (DOJ), and Federal documentation on operations, databases, and systems.

The key measures[2] used in this report are:

- **The FNC accuracy rate:** the percentage of workers receiving FNCs who are estimated to be unauthorized workers. Since this rate requires model-based estimates, its validity is limited by the validity of the model's assumptions.

- **The erroneous TNC rate:** the percentage of workers found to be employment authorized at any point in the verification process who received a TNC prior to receiving an employment-authorized finding.

- **Case characteristics:** used in this report for cases classified by the reason they were not automatically found employment authorized. This information comes from the Transaction Database.

## 3.    FINDINGS: ACCURACY OF E-VERIFY

### 3.1.    Overall Findings

**The erroneous TNC rate for E-Verify in FY 2009 was 0.3 percent and has been declining over time.** The erroneous TNC rate declined from 0.7 to 0.3 between April through June 2005 and April through June 2010.

**The overall accuracy of E-Verify for employment-authorized workers, as measured by the FNC accuracy rate, was approximately 94 percent.** It is estimated that 94 percent of FNCs were accurately issued to unauthorized workers and 6 percent were inaccurately issued to employment-authorized workers.

**Erroneous TNC rates in FY 2009 were markedly higher for permanent residents and other employment-authorized noncitizens than for U.S. citizens.** In FY 2009, the erroneous TNC rate was 0.2 percent for U.S. citizens compared to 0.7 percent for permanent residents and 4.2 percent for other employment-authorized noncitizens. The rate for all noncitizens was 1.5 percent.

**The erroneous TNC rate for U.S. citizens has decreased over time; however, the rate for noncitizens has not decreased.** The erroneous TNC rate for U.S. citizens decreased from 0.6 percent in April through June 2005 to 0.2 percent in April through June 2010. The erroneous TNC rate for noncitizens in

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[2] Accuracy rates are discussed in Appendix C.

April through June 2005 was 1.5 percent, and in April through June 2010 it was 2.0 percent, with considerable fluctuations in the rates during the intermediate period.

## 3.2. Accuracy of E-Verify Review Stages

### 3.2.1. Automated Review

**Illegible or ambiguous handwriting on original documents and Federal forms used in E-Verify can lead to data input errors and mismatches during the E-Verify process.** For example, illegible completion of the CBP Form I-94 (Arrival/Departure Document), which comprises the database for most nonimmigrants (individuals in the United States on a temporary basis for specific purposes), poses a particular challenge. Furthermore, CBP inspectors handwrite immigration class of admission and the date by which the nonimmigrant must depart from the United States on the Form I-94 and these, too, can be misinterpreted at the time of data entry.

**The design of Federal forms and instructions that are the source of data used in E-Verify sometimes results in data mismatches and erroneous TNCs during the E-Verify process.** Few Federal forms for immigration and citizenship benefits provide sufficient space to clearly write compound or very long names. Furthermore, most forms lack sufficient guidance on the form or in the instructions to cover commonly encountered situations, such as workers having names containing punctuation or suffixes.

**Maintaining accurate, timely, and complete information on biographic data and immigration and citizenship status presents a major challenge for Federal databases accessed by E-Verify.** The reasons for this challenge include lack of clear guidance to the public for informing SSA and immigration agencies of changes in name and the dynamic nature of immigration status. Many noncitizens change their immigration status or authorized period of stay multiple times while they are in the United States and may ultimately become U.S. citizens. This creates challenges for maintaining up-to-date employment-authorization statuses for some groups of noncitizens.

**Immigration-related systems and databases were most often designed for case tracking rather than for status verification, which made their use for verification both cumbersome and difficult.** Among other issues, when decisions concerning noncitizens' statuses, such as changes affecting employment status and length of authorized stay in the United States, are updated in one system, one or more uploads from a case tracking system are required for them to appear in the Central Index System (CIS). This process delays their availability in CIS and introduces opportunity for error, especially if there are problems with uploads.

**Most databases used in the automated E-Verify process are updated promptly with new status information about noncitizens, and there have been efforts made to improve the timeliness of data for nonimmigrants and new permanent residents. However, significant lags in entering information into some of the key databases remain.** The four primary databases used by E-Verify collectively contain information on most noncitizens and recently naturalized citizens but are independent of one another, use different sources of information, and have different degrees of accuracy, timeliness, and completeness. The various immigration systems do not always interface well and problems are exacerbated because the systems with information on noncitizens and naturalized citizens are maintained by three DHS components as well as the Departments of State and Justice, each with its own system priorities and privacy and data sharing concerns. Efforts have been made to make some nonimmigrant data accessible to E-Verify more quickly through the addition of passenger arrival data from airlines, which is available as soon as nonimmigrants enter the United States, and through electronic submission of Form I-94 data at land ports of entry. However, data lags of several weeks persist.

**The E-Verify manual does not cover all situations that employers are likely to encounter in entering biographic information into E-Verify.** For example, the manual does not *currently* include instructions for handling workers who have only one name, as occurs in some cultures.

**Because E-Verify searches multiple but not all databases in the process of determining employment authorization, all relevant information for an individual may not be used in the verification process.** For example, the E-Verify system searches the primary databases that constitute the Verification Information System (VIS) and, if it cannot locate an Alien number (A-number) or a Form I-94 number in these databases, it checks supplementary databases. However, there may be information such as name or status changes contained on supplemental databases that are not captured in the initial database checked that would be useful in determining worker's employment-authorization status.

**Some decision rules used in E-Verify matching processes to determine if cases should be considered employment authorized may not be optimal in all cases.** As is true in any matching process, two types of matching errors are possible: (1) a match is not made when there should be a match (i.e., a TNC is issued for an employment-authorized worker), or (2) a match is made when there should not be a match (i.e., a worker without employment authorization is found to be employment authorized because the rules are too lenient).

**Movement toward an integrated SSA-USCIS employment verification system has never been made, and neither agency has an integrated system in its plans for the future.** The original recommendation of the Commission on Immigration Reform in 1994 was to develop a single database to use in electronic verification to determine the employment-authorization status of workers, but this has not occurred. The lack of an integrated data system has had some negative impacts on E-Verify accuracy. For example, if a worker informs SSA of a name change, this information is not available to update USCIS records or to use in determining if the Form I-9 name matches the agency's information. Similarly, when a permanent resident naturalizes, SSA is unaware of his/her new U.S. citizenship unless the worker informs SSA.

**One area in which the Department of State, SSA, and DHS have improved is in requiring use of a person's given legal name on official documents; however, this rule has not been applied to the Form I-9.** Individuals must now use their full legal names on Social Security cards, visas, U.S. passports, USCIS immigration and citizenship documents, and CBP arrival and departure forms. Although use of the legal name was not required for the Form I-9 at the time this report was being written, new instructions encouraging this are being planned for release.

**Workers attesting to be noncitizens must meet both SSA and USCIS criteria for whether the information on the Form I-9 matches information on Federal databases.** U.S.-born workers must only meet SSA criteria during the biographic matching process, foreign-born citizens must meet SSA and USCIS criteria if their SSA records do not reflect the fact that they have naturalized, and all noncitizens must meet both SSA and USCIS criteria.

**The lack of a common identifier, such as the Social Security number (SSN), between SSA and DHS means that information about foreign-born U.S. citizens contained in USCIS naturalization databases may not be locatable when SSA is unable to confirm that the worker is in a status with permanent employment authorization.** Since many naturalization records, especially older records, do not contain SSNs, and since previously used A-numbers and Form I-94 numbers are not collected on the Form I-9 for citizens, information on many foreign-born citizens cannot be located within USCIS naturalization databases.

**USCIS is correctly identifying substantial numbers of cases of unauthorized workers who would have been found employment authorized prior to the 2005 procedural change that resulted in all noncitizen cases being sent to USCIS.** In FY 2009, there were 19,000 cases receiving FNCs or not employment-authorized findings that would have been found employment authorized under the pre-2005 procedures. Of these, an estimated 18,000 cases belonged to unauthorized workers.

### 3.2.2.  USCIS Second-Level Review

**With the second-level review, USCIS accuracy rates are substantially higher.** The FNC accuracy rate for all USCIS cases would have been approximately 58 percent without the second-level review, which is conducted prior to the issuance of a TNC, rather than 90 percent with the second-level review.

**USCIS Management Program Assistants (MPAs) are given little discretion in determining whether cases are employment authorized and are subject to more stringent requirements when matching information in the second-level review than is true in the automated review.** If MPAs believe that cases can be verified by using "common sense" measures beyond the stringent rules in their standard operating procedures (SOP), they must refer the case to their supervisors.

**MPA use of the new Person Centric Query Service (PCQS) has streamlined the search process, but is not a panacea for resolving cases.** PCQS enables MPAs to search up to 12 government databases using a single system log-in. However, MPAs reported that PCQS is slow and also reported that they sometimes need to search other databases separately to find information.

### 3.2.3.  TNC Resolution Process

**Employer failure to follow rules contributes significantly to the number of employment-authorized workers who receive FNCs.** If the employer does not inform workers of the receipt of TNCs or does not clearly explain the TNC process, the case is likely to become an FNC case. If all employment-authorized workers were informed of their TNCs and how to contest them, the evaluation team estimates that the FNC accuracy rate in FY 2009 would have been 99 percent instead of 94 percent.

**USCIS and SSA have made significant efforts to update their worker letters and other materials to make them easier for workers to understand.** SSA and USCIS made their worker documents more understandable for workers who may not be fluent in English. Some documents, such as the TNC and referral letters, have also been translated into Spanish and additional foreign languages.

**SSA Service Representatives cannot always identify E-Verify cases when workers do not inform them that they have TNCs.** If workers do not inform SSA field office staff that they are resolving TNCs, this may result in inaccurate findings. In April 2011, SSA added new alerts for Service Representatives that will check the E-Verify TNC database, which should help identify TNC cases.

**SSA Service Representatives frequently do not enter information about TNCs into EV-STAR.** Of the 7,700 SSA successfully contested TNC cases, 4,628 (60 percent) were resolved during the final automated pre-FNC check done for cases that employers reported having referred to SSA but that did not have EV-STAR records.

**While both SSA Service Representatives and MPAs receive training in E-Verify, many of them reported that additional training in E-Verify procedures would be helpful.** Service Representatives access additional online EV-STAR training or, depending upon the office, may receive additional in-person training on E-Verify. MPAs are not officers and currently do not attend the USCIS Training

Academy; however, all MPAs who expressed an opinion about the training believed that receiving officer training at the USCIS Training Academy was the best option.

### 3.3. Accuracy for Unauthorized Workers

**MPAs report that some employers submit cases that they strongly believe are fraudulent so that E-Verify will be responsible for the worker's job termination.** The Form I-9, which is completed by both E-Verify and non-E-Verify employers, requires the employer to attest to the fact that the worker's documents "appear to be genuine and relate to the employee." If the employer relies on E-Verify to determine employment authorization when the employer believes that the worker is not employment authorized, some workers using counterfeit documents with information about employment-authorized workers may be permitted to work despite employers' beliefs that they are using fraudulent documents.

**It is likely that many employers do not compare names returned by E-Verify with the Form I-9 information, as specified in the E-Verify employer manual.** Employers referred for a second-level review only 7 percent of all names in which their submissions and the E-Verify responses differed.

**Prior evaluation reports also indicate that employers do not comply with all the E-Verify requirements designed to reduce unauthorized employment.** For example, employers sometimes encourage workers to show documents not subject to the Photo Matching process.

## 4. FINDINGS: FNC ACCURACY RATES BY CASE CHARACTERISTICS

The evaluation used the following typology in examining the FNC rates for types of cases differing on the initial finding for workers not immediately found employment authorized:

- **Tier 1** cases constitute a relatively high percentage of FNCs issued to employment-authorized workers.

- **Tier 2** cases do not meet the Tier 1 criterion, but have relatively low FNC accuracy rates (defined for purposes of this analysis as accuracy rates below 85 percent).

- **Tier 3** cases do not meet either Tier 1 or Tier 2 criteria.

### 4.1. Tier 1 Cases

**Tier 1 cases accounted for more than three-quarters of FNCs issued to employment-authorized workers.** The four Tier 1 reasons for issuing FNCs to employment-authorized workers are:

- **Inability to confirm citizenship status of a worker attesting to be a U.S. citizen on the Form I-9,** which accounted for approximately 35 percent of all cases in which FNCs were issued to employment-authorized workers.

- **SSA name mismatch,** which accounted for approximately 33 percent of all FNC cases.

- **Inability to locate workers' Form I-94 number,** which accounted for 7 percent of all initial reasons leading to employment-authorized workers receiving FNCs.

- **USCIS name mismatch,** which accounted for another 5 percent.

**However, the four Tier 1 reasons were also responsible for identifying approximately one-quarter of** *unauthorized* **workers.** Workers claiming to be U.S. citizens but whose citizenship could not be confirmed constituted approximately 12 percent of all FNCs issued to unauthorized workers. SSA name mismatches accounted for another 7 percent and USCIS name mismatches for 6 percent. The only Tier 1 reason identifying negligible numbers of unauthorized workers was Form I-94 number not located.

**Locating accurate information on noncitizens who have become U.S. citizens remains a major challenge to E-Verify. This challenge affects not only the accuracy rate, but also creates a perception of bias against foreign-born citizens.** SSA has maintained information in its Numerical Index File database (Numident) on citizenship status of all persons issued SSNs since May 1981. However, workers who either become citizens or obtain an immigration status indicating that they have permanent work authorization typically do not realize they should report these changes to SSA. Although USCIS naturalization databases are checked when SSA cannot confirm citizenship status, there are limitations to the effectiveness of this match. Unavailable data include most naturalization data before the mid-1990s and information for citizens with derivative U.S. citizenship status—primarily those who derived citizenship as children at the time one or both parents naturalized.

**The recent addition of a passport check to E-Verify will help foreign-born U.S. citizens with derived citizenship status if they present a U.S. passport during the Form I-9 process.** Foreign-born citizens with derived citizenship status are likely to benefit from this addition, if they use a U.S. passport to establish their identity in the Form I-9 process. However, transaction data indicate that less than 10 percent of workers attesting to U.S. citizenship present a U.S. passport in the Form I-9 process.

**SSA and USCIS data on name changes are frequently unavailable.** Individuals who change their name due to marriage, divorce, adoption, or court order do not always report these changes to SSA and USCIS. Furthermore, high USCIS fees for name changes and issuance of new documentation (between $330 and $460) constitute a strong disincentive to reporting such changes to USCIS.

**Very long names are truncated when they are entered into SSA and USCIS databases and printed on documentation, which can result in worker or employer confusion about the name and possible mismatches between the Form I-9 and official names.** Limitations on the number of characters for names in data systems are carried over to document production, resulting in names that are truncated. Using different truncation conventions on different forms may also result in erroneous TNCs.

**The overwhelming majority of SSA name mismatch cases resolved after a TNC appear to involve changes of name in Numident.** By far the most common reason for name mismatches was that there had been a change in name or an error in the original enumeration, making it necessary to modify Numident (94 percent).

**One reason for not locating Form I-94 cases is that employers sometimes input an A-number with leading or trailing zeros after indicating in E-Verify that the number is an I-94 number.** MPAs reported that it was not unusual for them to be able to clear a case at second-level review if the Form I-94 number submitted had two leading or trailing zeros, which was presumably done to make the 9-digit A-number an 11-digit I-94 number.

**Form I-94 cases, other than the cases with two leading or trailing zeros, account for approximately 5 percent of FNCs issued to employment-authorized workers.** As discussed above, there are significant problems with the timeliness of data available for workers who use a Form I-94 as their proof

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of employment authorization. However, it is reasonable to assume that workers may use a Form I-94 to start work prior to their records being input into DHS databases used in the E-Verify process. Since the FNC accuracy rate is extremely low for work-authorized nonimmigrants documented on the Form I-94, while almost no FNCs are issued to unauthorized workers in these categories, it is also likely that few unauthorized workers use the Form I-94 for proof of employment authorization.

## 4.2.    Tier 2 Cases

**Types of Tier 2 cases with relatively low FNC accuracy rates include: (1) most of the immigration statuses that do not clearly identify workers as employment authorized; (2) USCIS cases referred by their employers for second-level review because of name mismatches; and (3) cases in which USCIS found a date of birth mismatch but not a name mismatch.** FNC accuracy rates for workers who are students or exchange visitors were 76 percent and 81 percent, respectively. Cases with unknown authorization status based on information in the Transaction Database had an FNC accuracy rate of 58 percent. Cases that the employer referred to second-level review because of a possible name mismatch had an FNC accuracy rate of 72 percent, and USCIS date of birth mismatch cases had an FNC accuracy rate of 67 percent.

## 5.    DIFFERENCES BETWEEN CITIZENS AND NONCITIZENS

**The gap in the erroneous TNC rates for citizens and noncitizens cannot be easily explained by looking at the components of the gap attributable to case characteristics.** There are not one or two case characteristics, such as name mismatches or confirmation of employment-authorization status, that explain all or most of the total gap between the erroneous TNC rates of citizens and noncitizens. The most important component of the erroneous TNC rate for both citizens and noncitizens is inability to confirm employment-authorization/citizenship status, but the rate is much higher for noncitizens (0.6 percent) compared to citizens (0.1 percent). The second highest component of the erroneous TNC rate for both citizens and noncitizens is name only mismatch (0.4 percent for noncitizens compared to 0.1 percent for citizens).

## 6.    RECOMMENDATIONS

The recommendations in this report range from those that can be readily undertaken by Federal agencies to longer-term initiatives that require regulatory or even statutory changes to implement. However, the evaluation team believes that the recommended changes are needed to increase the accuracy of E-Verify. It should also be noted that recommendations that lead to improvements in the databases used by E-Verify would also lead to increased accuracy in other Federal programs, including those involving national security.

**The major challenge to E-Verify accuracy attributable to workers is the use of fraudulent documents by unauthorized workers to obtain employment-authorized findings.** In the December 2009 evaluation report, it was estimated that approximately half of all unauthorized workers used identity fraud or other fraudulent means to obtain an inaccurate E-Verify finding of employment authorized. The major recommendations to combat unauthorized workers fraudulently obtaining employment authorization through E-Verify are as follows:

- Explore on a pilot basis whether some of the automated decision rules used in E-Verify are too lenient, thus allowing a relatively large number of unauthorized workers to be found employment authorized.

- Conduct additional outreach to employers to make them aware that E-Verify does not exempt them from checking proffered documents to determine that they appear to be genuine and to belong to the worker.

- Change regulations to further restrict the documents that workers can use in the E-Verify Program to make it more difficult for workers to use easily-counterfeited documents. The number of document types considered acceptable in the Form I-9 process has been reduced in the past. The evaluation team suggests that the list of documents be further decreased, focusing on eliminating those documents most frequently used by unauthorized workers. USCIS reports that they are working on such a change.

**The major challenge to E-Verify accuracy attributable to employers is the failure of some employers to notify workers when they receive a TNC.** If all employment-authorized workers were informed of their TNCs and how to contest them, the evaluation team estimates that the FNC accuracy rate in FY 2009 would have been 99 percent instead of 94 percent. Recommendations for addressing this challenge are:

- In addition to having the employer notify the worker, institute a program for the Federal government to send workers notification about their TNCs and the procedures for contesting them.

- Expand outreach and training of employers on the importance of informing workers of TNCs.

- Continue to expand the work of the USCIS monitoring and compliance units to identify employers and take action when it appears that they are willfully ignoring their responsibility to inform workers of TNCs.

**A second source of employer-generated inaccuracies is employer data input errors due to ambiguous handwriting, lack of understanding how to complete the Form I-9, or carelessness.** This challenge can be addressed by the following recommended actions:

- Expand the current ongoing Form I-9 review by including an external forms design expert.

- Develop software and make it available without charge to employers to produce electronic Form I-9s and encourage them to use this service. USCIS reports that they are working on program changes such as these.

**A third source of inaccuracies attributable primarily to employers is an inadequate review of differences between names on the Form I-9 and names returned by E-Verify.** The FNC accuracy rate for the employer name review is relatively low and, furthermore, it appears that many employers do not compare names returned by E-Verify to the Form I-9 information. To address this issue, the following is recommended:

- Replace the employers' comparison of names input and names returned by E-Verify with more stringent USCIS name-matching decision rules in the automated review.

**General recommendations focusing on inaccurate FNCs attributable to the Federal government are:**

- Federal agencies with immigration responsibilities should review and revise their forms and related instructions with assistance from an external expert in form design. Special attention should be paid

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to fields used in E-Verify (name, date of birth, aliases, document numbers, and information related to citizenship and immigration status).

- Complete the ongoing transformation project in USCIS expeditiously to improve the completeness, timeliness, and accuracy of DHS data used in E-Verify.

- Find and implement additional ways of data sharing between DHS and other Federal agencies to improve the accuracy of all the databases used in E-Verify.

- Do not charge fees to noncitizens who wish to correct information on DHS databases used in the E-Verify match or to obtain new documents reflecting the change.

- To the extent feasible, use the SSN or an alternate number as a common numerical identifier for accessing all of the databases with information about the workers' employment-authorization status.

- Review SSA and USCIS E-Verify decision rules in light of the detailed findings of this report and additional research to assess potential impacts of proposed changes to these rules.

- Implement a finding of conditionally employment authorized to students, exchange visitors, and nonimmigrant workers authorized to work for specific employers and require the employers to confirm that they are authorized to hire workers in the specified category.

- Subject all unresolved cases receiving TNCs to the automated check at the end of the tenth day to reduce issuance of erroneous FNCs.

- Do not give workers who have successfully contested prior TNCs successive TNCs for the same reason that earlier TNCs were issued if the reason was based on biographic information, and the worker's employment authorization can be confirmed. For example, if the worker has successfully resolved a previous TNC for a name mismatch, a TNC would not be issued for a name mismatch unless the person's employment-authorization status (which is checked after the biographic match) indicates the worker is not employment authorized.[3]

- Create unique codes within all nonimmigrant categories to differentiate between employment-authorized nonimmigrants and their spouses and children who may not be employment authorized.

- Review and improve the training of both SSA Service Representatives and MPAs.

**Following are recommendations to improve the accuracy of E-Verify findings for foreign-born U.S. citizens:**

- When SSA cannot confirm that workers claiming to be U.S. citizens have permanent employment authorization and USCIS records show that the workers have permanent employment-authorization status, the decision rule should ensure that such cases are automatically found employment authorized, even if USCIS information cannot confirm that the worker has naturalized.

- At the pre-TNC stage, permit workers attesting to be citizens to provide U.S. passport and/or former A-numbers to assist in locating their records on DHS databases.

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[3] If such a program were implemented, it may be logical to require that the prior TNC was less than a specified time period.

**Additional recommendations to reduce the number of name mismatches** leading to issuance of FNCs to employment-authorized workers are:

- Modify the Form I-9 and E-Verify to ask for "other names ever used" instead of maiden name and use these additional names in the name-matching process.

- Modify SSA name-matching decision rules to increase the likelihood that employment-authorized workers with name changes can be found employment authorized without receiving TNCs.

- Make SSA and USCIS decision rules more similar to avoid situations in which a name match might be adequate for SSA purposes but inadequate for USCIS, or vice versa.

- Require use of the legal name on the Form I-9.

**To improve accuracy related to I-94 information that cannot be located,** the evaluation team makes the following recommendations:

- Automatically check whether document numbers listed as I-94 numbers are, in fact, A-numbers.

- Issue a "provisional authorization" finding to workers whose I-94 records cannot be located, and recheck employment-authorization status after adequate time has elapsed for the DHS databases to be updated.

## 6.1.    Future Research

The evaluation team believes that the following recommendations should be given priority in attempts to improve the accuracy of E-Verify:

- Pilot test and evaluate less tolerant matching criteria.

- Conduct a study to determine the likely level of identity fraud among workers using different identity documents in the E-Verify process.

- Evaluate the results from the E-Verify Self Check service implemented in March 2011 to determine its effectiveness in improving E-Verify accuracy.

- Continue evaluating E-Verify periodically while E-Verify continues to evolve.

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# CHAPTER I. INTRODUCTION

## 1.    EVALUATION GOALS

The E-Verify legislation specified that the goal of the Program is to *reduce* unauthorized employment without undue burden on employers or contributing to employment discrimination. The last independent evaluation of E-Verify (December 2009)[4] found the Program was effective in reducing unauthorized employment with minimal burden on most employers and issued Tentative Nonconfirmations (TNCs) to employment-authorized workers infrequently. The report also documented that the overall accuracy rate of E-Verify for employment-authorized workers increased over time.

Although the December 2009 evaluation had positive findings about the accuracy of E-Verify for employment-authorized workers, U.S. Citizenship and Immigration Services (USCIS) requested a follow-up evaluation focusing on the accuracy of the steps in the E-Verify process to identify ways to further improve program accuracy. This continuing interest in improving E-Verify is driven by both a desire to reduce its burden on employers and workers and to address evaluation statistics pointing to lower accuracy rates for noncitizens and foreign-born citizens than for U.S.-born citizens.

The December 2009 evaluation report also indicated that E-Verify accuracy rates for workers who are not authorized to work in the United States are substantially lower than the accuracy rates for workers who are employment authorized. This finding is attributed, in large part, to the fact that E-Verify was not designed to prevent identity fraud related to workers providing documents to employers with information about employment-authorized persons.

This evaluation examines factors contributing to the E-Verify Program's limitations in determining whether or not workers are employment authorized. It also discusses implications of alternative modifications to E-Verify and to the Federal databases used by the Program that could affect accuracy rates.

The intended audience for this report consists of individuals who are familiar with E-Verify and wish to obtain a greater understanding of the accuracy of the Program. The report is designed for readers with a basic understanding of research methods and statistics. Methodological information likely to be of interest to general readers is available in the findings chapters and additional information for readers with more advanced technical skills is contained in the appendices.

Basic information about the Program can be obtained by clicking on "E-Verify Home page" on the USCIS website (http://www.uscis.gov/portal/site/uscis).

The primary research questions addressed in this report are:

- How accurate is E-Verify for employment-authorized workers?

- How accurate is E-Verify for noncitizens compared to citizens and for foreign-born citizens compared to U.S.-born citizens?

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[4] See Westat, *Findings of The E-Verify® Program Evaluation*, December 2009, (http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=3a351e56d3856210VgnVCM100000082ca60aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD) for the most recent comprehensive evaluation.

- Does the USCIS second-level review process enhance accuracy rates? Are there ways to further strengthen the second-level review process?

- How accurate are the Social Security Administration (SSA) and USCIS Tentative Nonconfirmation (TNC) reviews? What improvements might be made to these reviews?

- How do Federal databases contribute to E-Verify accuracy? What is needed to improve the accuracy of information obtained from these databases?

- How can E-Verify's accuracy in identifying unauthorized workers be improved?

- What types of cases are most likely to result in Final Nonconfirmations (FNCs) being issued to employment-authorized workers? How can the number of inaccurate FNCs be reduced?

The remainder of Chapter I describes the process used in E-Verify to verify employment authorization and includes a brief description of the Federal databases used in the E-Verify process. Chapter II presents methodological information about the study. Chapter III describes evaluation findings on E-Verify accuracy rates at different stages in the process. Chapter IV discusses accuracy rates for different types of cases characterized by initial E-Verify findings. Both Chapters III and IV present recommendations for improving E-Verify accuracy rates. The final chapter highlights overall findings and makes key recommendations for future changes to E-Verify.

## 2. THE E-VERIFY PROCESS

### 2.1. Overview of the E-Verify Process

Congress authorized the Basic Pilot Program, now referred to as E-Verify, for four years under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) to test electronic verification of the work-authorization status of new hires of participating employers. Congress extended the Program's authorization several times. The Federal Government has expanded it in scope and modified it considerably based, in part, on Westat evaluation reports.[5]

It is the only Federal electronic employment verification program available to employers to validate the lawful employment status of all new hires.

Exhibits I-1 and I-2 and the following description reflect the program design as of May 2010.

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[5] See Westat, *Findings of The E-Verify® Program Evaluation*, December 2009, (http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=3a351e56d3856210VgnVCM100000082ca60aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD) for the most recent report.

**Exhibit I-1. Verification Process for Persons Attesting to Be U.S. Citizens on Form I-9**
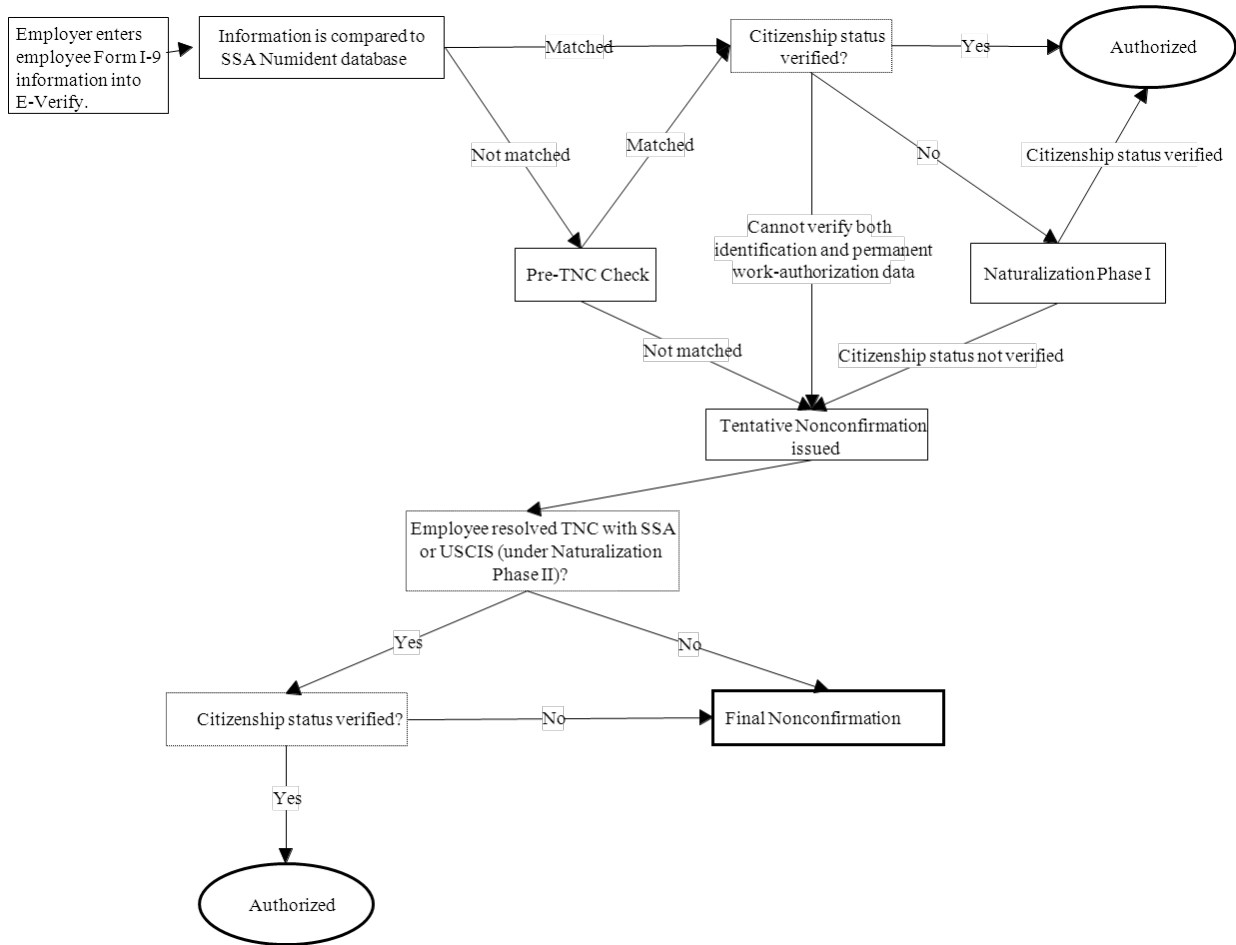
**Exhibit I-2. Verification Process for Persons Attesting to Be Noncitizens on Form I-9**
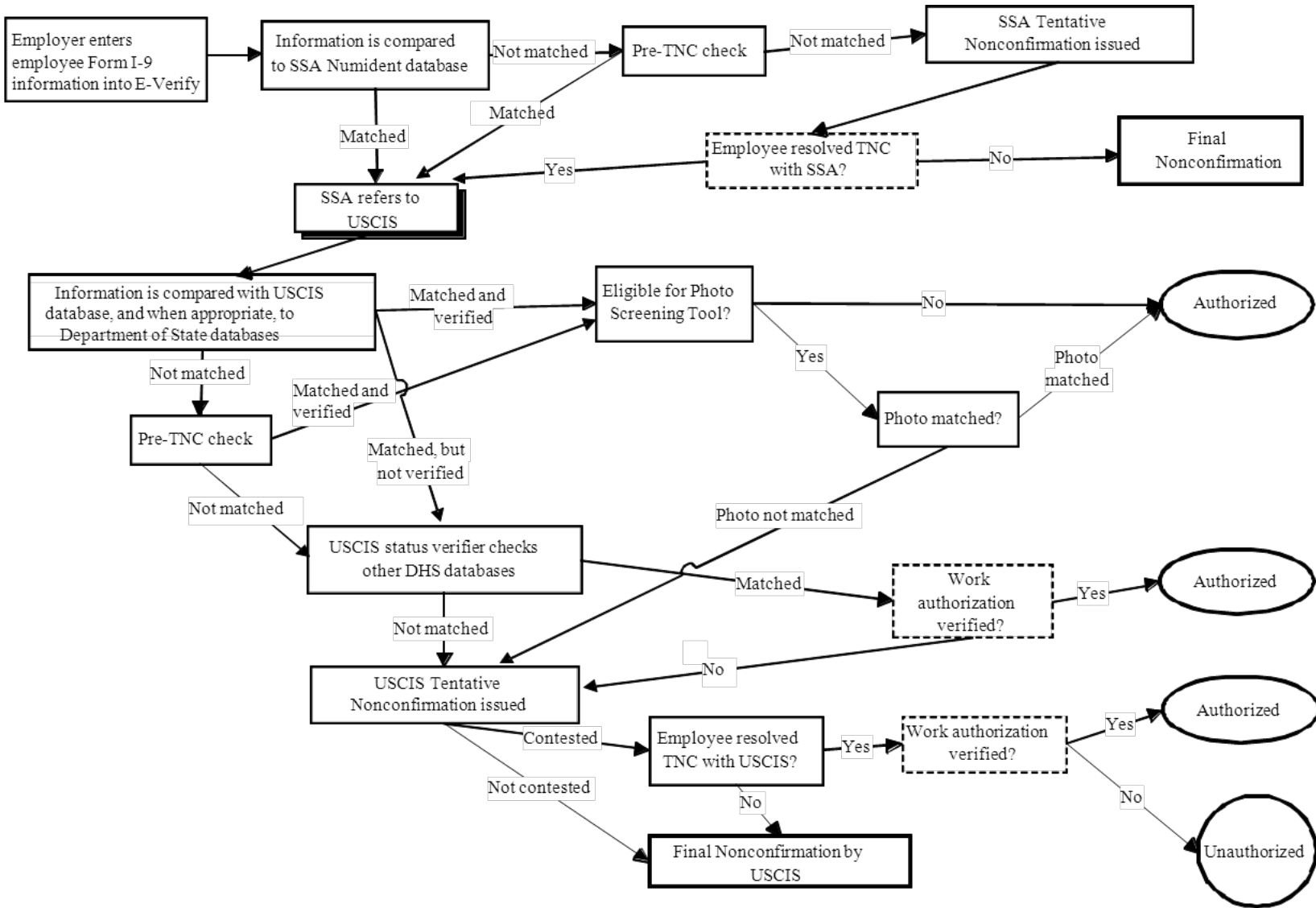
After registering for E-Verify, signing a Memorandum of Understanding (MOU) with USCIS, and completing required online training, participating employers are required to perform electronic verification of every newly hired employee. To verify the employment-authorization status of a newly hired employee,[6] the worker and employer must first complete the USCIS Form I-9, which is also required for employers not using E-Verify. The employer then submits information (Social Security number (SSN), name, date of birth, citizenship or alien status, and, if relevant, alien number (A-number) or I-94 number), from the Form I-9 over a secure Internet connection to be matched against database information. Name, date of birth, and SSN are first matched against SSA's Numerical Index File database (Numident), and then, for noncitizens and some naturalized citizens, against Department of Homeland Security (DHS) data contained in the Verification Information System (VIS).

If the worker attests to being a U.S. citizen and the information submitted matches SSA information, the employer is instantly notified by the system that the worker is employment authorized. If information from the SSA database does not match the worker information entered, E-Verify instantly requests the employer to check for possible input errors and, if no changes are made, E-Verify issues a TNC finding. If the worker attests to being a U.S. citizen and SSA records indicate that the SSN and biographic information are consistent, but cannot confirm the worker's employment-authorization status, USCIS naturalization databases are automatically checked to determine whether those records confirm citizenship through naturalization.[7] If the records do confirm the worker's citizenship status, the employer is instantly notified by the system that the worker is employment authorized; otherwise, the employer is asked to check for possible input errors and, if no changes are made, a TNC is issued. If the information for a worker, either citizen or noncitizen, is not consistent with Numident or USCIS naturalization records, an SSA TNC is issued and the worker must visit an SSA field office to resolve the discrepancy.

If the worker attests to being a noncitizen and the SSA database information matches the worker information, the worker information is electronically checked against DHS databases. If the information matches DHS databases and the worker is authorized to work in the United States, the employer is asked to verify that the name returned by E-Verify (from Federal databases) matches the name on the Form I-9. If the worker used a Permanent Resident Card ("green card") or an Employment Authorization Document (EAD) as proof of identity and employment authorization, the automated response also includes the digitally stored photograph, if available, that was used to produce the card the worker presented in the verification process. Unless the employer identifies a problem with the worker's name or photograph, the case is automatically found employment authorized.

If the employer indicates that the Form I-9 name and the name returned by E-Verify differ, the case is sent for second-level review. If the employer indicates that a photograph returned by E-Verify does not match the photograph on the worker's document, the case is issued a TNC.

If the DHS database information does not match the worker information, E-Verify instantly requests the employer check for possible input errors and, if no changes are made, the information is sent to a Management Program Assistant (MPA).[8] The MPA checks additional information available in DHS records to confirm the employment-authorization status and provides an electronic response to the

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[6] As of September 8, 2009, Federal contractors were permitted to verify existing employees as well as new employees.

[7] Starting in 2009, E-Verify also checks Department of State U.S. passport data to confirm the individual's citizenship status if the individual submits a U.S. passport and SSA information does not confirm citizenship. Beginning in September 2010 the passport photograph of the U.S. citizen is returned as part of the E-Verify response for matching with the photograph in the passport presented.

[8] Management Program Assistants were previously referred to as Immigration Status Verifiers (ISVs).

employer, usually within 24 hours. If the MPA cannot confirm employment authorization, a TNC finding is issued.

If the employer confirms that the Form I-9 and E-Verify names are the same, and the photo returned in the E-Verify response matches the photo on the document or, if no photograph is available on E-Verify, the worker is instantly verified as employment authorized. When a TNC is issued, employers are required to inform affected workers in writing of the E-Verify finding and their right to contest the finding. If any discrepancies with SSA or DHS records are resolved by the worker during the contesting process, E-Verify issues an employment-authorized finding. When workers say that they do not want to contest TNCs or fail to contact SSA or USCIS, the E-Verify system issues an FNC finding on the tenth workday, and employers are expected to promptly terminate the workers' employment.

## 2.2.    Matching Process

When matching data from two different sources, automated matching routines may use algorithms to reduce the number of mismatches attributable to minor differences between the two sources. For example, in matching names, the algorithm may allow for a reversal of two letters in a name. Algorithms are used in matching Form I-9 biographic data input by employers to the data from Federal databases in E-Verify associated with the case's numeric identifier. Two types of matching errors are possible: (1) a match is not made when there should be a match (i.e., a TNC is issued for an employment-authorized worker) and (2) a match is made when there should not be a match (i.e., a worker without employment authorization is found to be employment authorized because the algorithm is too lenient). Changing algorithms to decrease one type of error often increases the other type of error.

SSA has long used matching algorithms in fulfilling its mission and, not surprisingly, also uses fairly complex matching algorithms to determine whether the worker's name, date of birth, and SSN are consistent. Like SSA, USCIS uses algorithms to check Form I-9 information provided by the employer with Federal information during its initial automated check. However, these algorithms are less complicated than the ones used by SSA. Detailed descriptions of the algorithms used in the E-Verify process are not included in this report to avoid disclosing information that the Federal government wishes to keep confidential.

As discussed above (Section 2.1), the USCIS E-Verify procedures differ from those used by SSA in that prior to the issuance of a TNC, cases not found to be work authorized at the automated checking phase are reviewed by MPAs. Although the need for the second-level review is primarily to allow additional Federal databases to be checked for information not included in the VIS, this second-level review also offers an opportunity to compensate for the comparative simplicity of the USCIS automated review in comparison to that of SSA through implementation of some checks similar to electronic reviews performed by SSA.

## 2.3.    Resolution Process

### 2.3.1.   SSA

If the automated check of Numident and the DHS databases used for confirming naturalization do not confirm that a worker attesting to U.S. citizenship is work authorized, the employer is required to provide the worker with a TNC notice. The notice asks the worker whether (s)he wishes to contest the SSA TNC. If the worker says that (s)he wishes to contest, the worker is given a second letter referring the worker to

an SSA field office to resolve the discrepancy.[9] This letter tells the worker what documents to bring to SSA. In some cases, the worker may offer an explanation of the mismatch to the employer (such as a typographical error). In this situation, the employer may terminate the original case as an "invalid query" and submit a new case with the corrected information to E-Verify.

If the worker chooses to contest and contacts SSA within eight Federal working days of referral, as required, SSA will examine the documentation the worker provides (such as a marriage certificate or court document) in support of a Numident record change. If the documentation provided supports making the requested changes, the Service Representative updates Numident accordingly. If the worker does not have the necessary documentation for a change to be made in Numident, the Service Representative will put the case in continuance[10] to give the worker time to request and receive the documentation SSA requires. The Service Representative should enter the results of the visit into the EV-STAR database, a case-control system used by SSA to track the progress of E-Verify cases.[11]

### 2.3.2. USCIS

All noncitizen E-Verify cases that SSA finds to be consistent with the identifying information in Numident are electronically forwarded to USCIS. USCIS then matches the employer input information with the VIS, which contains information from several DHS databases. If an automated match is not found, MPAs, who are assigned E-Verify cases, search DHS databases (either not included in the VIS or with incomplete or out-of-date information in the VIS) to determine if the supplemental information permits finding the case work authorized. This step is referred to as a second-level review and is normally completed within 24 hours of referral. The employer is then informed electronically in E-Verify that the case is employment authorized or that a TNC is being issued.

If a TNC finding is issued, the employer is required to inform the worker of the finding and to give the worker an opportunity to contest the case (referred to as a third-level review). The employer's steps are the same as the steps for the SSA TNC described above except that the worker is instructed to contact USCIS by phone rather than in person. At the third-level review, the MPA typically requests that a worker fax one or more of his/her immigration or citizenship documents to USCIS. These documents help the MPA determine the correct database(s) to check. In addition, MPAs can request staff in the USCIS National Records Center (NRC) to check information in paper A-files, although this is rarely necessary for E-Verify cases.

MPAs are not authorized to change any errors in DHS records (e.g., names and dates of birth); only staff in the Office of Records and Management are authorized to make changes to USCIS records. The MPAs, however, can recommend that workers visit a USCIS office to resolve discrepancies with their DHS records or can refer the worker to a USCIS customer service number. MPAs can enter a comment into the VIS indicating the needed change/correction to the database; however, these comments are not routinely reviewed.

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[9] If the TNC results from neither SSA nor USCIS being able to confirm the work-authorization status of the worker, the citizen may contact USCIS by phone in lieu of contacting SSA in person.

[10] SSA Service Representatives usually give 30-day continuances, which can be extended if necessary. The worker should be allowed to continue employment during this period.

[11] Selected information from this database is also merged into the VIS.

## 3. OVERVIEW OF DATABASES USED IN E-VERIFY

This section provides a foundation for understanding the multiple sources of data used by E-Verify. The large number of systems accessed either automatically or as part of subsequent SSA and USCIS staff reviews helps explain some of the complexities and challenges with matching cases in E-Verify.

Most of the databases used in E-Verify and the agency forms that provide information for these databases were developed before E-Verify or its predecessor electronic employment verification programs existed. Therefore, using the databases for electronic employment verification can be challenging.[12]

Data used by E-Verify for verification of employment status come from systems maintained by SSA, the Department of State, Customs and Border Protection (CBP), and USCIS. Relevant data may also come from Immigration and Customs Enforcement (ICE) and the Immigration Courts and Board of Immigration Appeals in the Department of Justice (DOJ) Executive Office for Immigration Review (EOIR).

### 3.1. Databases Used in Automatic Searches

E-Verify automatically checks some systems to determine if employment authorization can be confirmed. These systems include SSA's Numident and four DHS databases containing noncitizen data that are uploaded regularly[13] into the VIS for use in responding to E-Verify cases:

- **Numident (SSA):** SSA maintains a Numerical Index File known as Numident for use in issuing SSNs and SSN cards. Numident, created as an electronic system in the 1970s, contains information on 465 million persons who have been issued SSNs since 1936 including their assigned SSN, name, date of birth, and place of birth. SSA has also maintained information on the citizenship status of persons issued SSNs since May 1981.

- **Central Index System (CIS):** The USCIS CIS is a searchable mainframe database containing over 60 million records, primarily on noncitizens. Although administered by USCIS, CIS is used DHS-wide as an index for maintaining information on current immigration status for most noncitizens other than nonimmigrants.[14] Based on a unique numerical identifier, the A-number, the CIS contains biographic information, historical and current status information including references to other databases with related information, and the location of the related paper A-file. It interfaces with some 20 internal DHS data systems as well as data systems related to noncitizens maintained by other agencies, including the Bureau of Consular Affairs in the Department of State, and the EOIR in the DOJ.

- **Image Storage and Retrieval System (ISRS):**[15] The ISRS is a searchable USCIS database that contains digitized biometric information including the signature and photograph used in the

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[12] Appendix A includes a more detailed discussion of these databases, the forms that feed into them, and issues concerning their accuracy, timeliness, and completeness.

[13] Updates are uploaded nightly with the exception of Real Time Arrival System data, which are updated in real time.

[14] By statute, nonimmigrants are individuals admitted temporarily for specific purposes. Immigrants (e.g., asylees, refugees, undocumented aliens, lawful permanent residents) are all aliens other than nonimmigrants, although in common usage the term "immigrant" typically is used to refer to lawful permanent residents.

[15] ISRS is now known as the Customer Profile Management System (CPMS).

production of secure documents issued by USCIS, such as the Permanent Resident Card (Form I-551) and the EAD (Form I-766). ISRS is a source of the photograph used in the E-Verify Photo Matching process.

- **TECS:**[16] The CBP TECS System contains information on the arrivals and departures of noncitizens admitted to the United States temporarily for specified purposes as nonimmigrants. Among these specified purposes are several nonimmigrant categories with authorization to work either incident to the nonimmigrant status or after permission to work is granted by USCIS. TECS is based on the sequential number of the Arrival/Departure Document (I-94), which is used as proof of employment-authorization status for many nonimmigrants.

- **Advance Passenger Information System (APIS):** Because of delays in the availability of I-94 data, against which the employment status of recently arrived nonimmigrants is verified, USCIS uses CBP data from APIS for checking some E-Verify cases. APIS is a subset of TECS. The data in APIS come from information on arriving passengers that is submitted during ticketing and required to be sent electronically to CBP before planes are secured for departure to the United States and before ships arrive at U.S. seaports.

Three databases have been added to the automated verification process to help confirm U.S. citizenship when workers attest to being U.S. citizens on the Form I-9, but SSA is unable to confirm U.S. citizenship through Numident based on the immigration status documented when they last visited an SSA office:

- **Computer-Linked Application Information Management System 4 (CLAIMS4):** CLAIMS4, implemented in the mid-1990s, is USCIS's centralized automated system used to track processing of applications for naturalization. Tracking in CLAIMS4 spans the time of application through final decision-making and acquisition of U.S. citizenship. CLAIMS4 data include the applicant's former A-number and usually SSN.

- **Redesigned Naturalization Automated Casework System (RNACS):** RNACS was used by USCIS from 1986 to 1996 by district offices prior to implementing the centralized CLAIMS4 system. RNACS includes older naturalization data that cannot be found in CLAIMS4 and data for some USCIS offices where CLAIMS4 was not initially implemented. It includes new citizens' former A-numbers, but not their SSNs.

- **Passport Data:** U.S. passport data are maintained in the Passport Information Electronic Records System (PIERS) by the Department of State, Consular Affairs. The Bureau of Consular Affairs electronically transfers data on passport issuance to CBP for port of entry inspection purposes. Since 2009, CBP has made these data available to E-Verify to assist in verifying the U.S. citizenship of persons presenting U.S. passports in the I-9 verification process.

Data from another possible source of information on noncitizen arrivals, the Arrival/Departure Information System (ADIS) data from the DHS US-VISIT Program, are not used in E-Verify. Based on information from CBP, however, this database provides a better source of information for verification of recent noncitizen arrivals. ADIS uses Department of State visa issuance data in the Consular Consolidated Database (CCD) that is activated by the swipe of a foreign passport at the time of arrival in the United States, which adds information on time and place of admission to the already data-rich record.

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[16]TECS is not an acronym. It originally stood for Treasury Enforcement Communications System, but after moving from the Customs Service in Treasury to CBP within DHS, the system is now "TECS."

### 3.2. Systems/Databases Used in USCIS Second- and Third-Level Reviews

Additional databases contain information on the current immigration status of noncitizens and are accessed by USCIS MPAs when work authorization cannot be confirmed automatically through one of the systems described above. Following are the primary databases MPAs access for this purpose.

- **Computer-Linked Applications Information Management System Mainframe 3 (CLAIMS3):** CLAIMS3 is an event-specific system that tracks noncitizens applying for several types of immigration benefits from the time of application to the final decision. Of particular interest for verification are cases involving adjustment to permanent resident status, extension of nonimmigrant stay, and change of nonimmigrant status, each of which is important in accurately determining workers' current employment-authorization status. Because CLAIMS3 is event based, it does not consolidate information on individuals who have more than one application record in CLAIMS3. CLAIMS3 uses Receipt Number as the numerical identifier for most types of cases rather than A-number or I-94 number, although either or both of those numbers may also be included in CLAIMS3 records.

- **Refugee, Asylum, and Parole System (RAPS):** The USCIS RAPS is a case tracking system containing information on affirmative asylum applications submitted to USCIS and applications for benefits provided through the Nicaraguan Adjustment and Central American Relief Act (NACARA). Cases are tracked by A-number.

- **ENFORCE Alien Removals Module (EARM):** An application within ICE's Enforcement Integrated Database (EID), EARM is a consolidated database of enforcement-related information on noncitizens. EARM uses A-number and includes information on noncitizens in unlawful statuses who may be in detention or subject to other forms of custody, who are in removal proceedings before EOIR, or who have been removed or formally deported from the United States.

- **Student and Exchange Visitor Information System (SEVIS):** SEVIS is maintained by ICE to collect, maintain, and manage information about foreign students, exchange visitors, and the dependents of these nonimmigrant categories while they are in the United States to ensure they are maintaining the lawful status required by their programs. It also contains information on the educational institutions and programs that are authorized to accept these nonimmigrants. The unique identifier is the SEVIS number, although an A-number or I-94 number may be included in the record.

- **Records and Management Information System (RMIS):** The EOIR RMIS is a case tracking and management system maintained by the EOIR within the DOJ. This system contains information on noncitizens in removal proceedings, including those who have applied for administrative relief from removal, usually for asylum or permanent resident status. Information on noncitizens in EOIR removal proceedings is exchanged by direct, system-to-system interface with EID/EARM on detention status, court hearing schedules and decisions, and issuance of removal documents.

A glossary and four appendices are included at the end of this report. The appendices, which include technical information on some of the methodology used for the report and supplemental tables for accuracy rates, are as follows:

- **Appendix A:** The Source and Accuracy of Federal Data Used to Confim E-Verify Cases

- **Appendix B:** Steps for Cleaning the Transaction Database

- **Appendix C:** Measuring Accuracy In *Evaluation of the Accuracy of E-Verify Findings*

- **Appendix D:** Supplemental Tables

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# CHAPTER II. METHODOLOGY

## 1.  INTRODUCTION

This report relies primarily on interviews with Federal staff and their contractors and analyses of E-Verify databases, supplemented by information from system testing and review of relevant documents. This chapter describes these data sources and discusses issues related to measurement and data analysis.[17]

## 2.  DATA SOURCES

### 2.1.  Interviews With Federal Officials

The evaluation team conducted a series of semi-structured interviews with Federal staff and contractors between October 2009 and May 2011. Interviews were conducted via telephone and/or in person with staff from the following offices:

- Office of Special Counsel for Immigration Related Employment Practices (OSC) within the Department of Justice (DOJ);

- U.S. Citizenship and Immigration Services (USCIS) headquarters staff in the Verification, Transformation, Field Operations, and Service Center Operations units;

- Department of Homeland Security (DHS) staff in Customs and Border Protection (CBP);

- USCIS Management Program Assistants (MPAs), their supervisors, and management staff in Los Angeles, CA; Buffalo, NY; and headquarters;

- Social Security Administration (SSA) headquarters staff and Social Security Service Representatives in two field offices; and

- Contract staff from USCIS's verification support contractor.

Confidentiality concerns have precluded attribution of information to individuals.

These sources provided invaluable information about how the E-Verify system works, suggestions for possible modifications of E-Verify, recent and planned changes to E-Verify, and how DHS systems are used in verification.[18] Case information obtained from interviews with Service Representatives and MPAs was based on their recollection of cases they had handled and is subject to recall bias.[19]

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[17] This report is designed for readers with a basic understanding of research methods and statistics. Methodological information likely to be of interest to general readers is available in the findings chapters and additional information for readers with more advanced technical skills is contained in the appendices.

[18] See Chapter I for a description of the databases used in E-Verify.

[19] Recall bias and other technical terms used in this chapter are defined in the glossary.

## 2.2.    E-Verify Transaction Data

The key quantitative data source for this report was the Transaction Database, which provides information on employer use of the E-Verify Program and case outcomes derived from the actions of employers and the Federal government that are input into E-Verify during the verification process.

Westat constructed an extract from the Transaction Database consisting of all 31 million cases submitted to E-Verify from the start of the web-based program in June 2004 through June 2010. Since the source database was designed to address DHS and SSA administrative needs and program goals rather than for evaluation purposes, the original Transaction Database required complex file manipulation and cleaning before it could be used for analysis.[20]

The transaction data were subjected to extensive cleaning routines to delete cases that were transmitted in error (e.g., when the employer realized that a case had been mistakenly transmitted more than once) and to correct situations in which it appeared that the employer had improperly input previously submitted cases as if they were new cases. Although not all errors can be detected by such cleaning routines, the resulting database more accurately reflects actual case processing appropriate for evaluation purposes than the original.

For the current evaluation, cleaning routines used in prior evaluations were revised to include additional routines based on increased understanding of transaction data obtained during analyses for the last evaluation and discussions with both USCIS verification staff and the contractor responsible for the E-Verify database system.[21] Data from employer registration files and the EV-STAR database used by SSA staff for tracking E-Verify cases were merged into the Transaction Database[22] to create the analytical transaction record files.

The E-Verify Transaction Database for fiscal year (FY) 2009, used for most analyses in this report, contains 8.2 million cases representing the total population of cases submitted during that time. Although sampling error is not a concern for the entire database or for major subgroups of cases, analyses based on smaller subgroups were subject to sampling error.[23] The possibility of measurement error, such as inaccurate reporting of information, also exists. Although the data were cleaned, it is not possible to rectify all errors.

One limitation to the data in the Transaction Database for evaluation purposes is that E-Verify does not currently allow a USCIS Final Nonconfirmation (FNC) to be overridden if a worker or the employer requests further consideration of a case after the 10 Federal workday period has expired. If a worker is found to be employment authorized after 10 days, the worker's case status of FNC would have already been in the Transaction Database and cannot be changed in the system by the MPA. Although this would lead to an overestimate of the number of FNCs, there is no reason to believe that it would have more than a slight impact on the results since such cases are rare.

Some trend analyses were conducted for this report using the full Transaction Database with cases from July 2004 through June 2010. To ensure data comparability, all cases were cleaned using the current

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[20] The uncleaned Transaction Database is useful in that it captures overall query volume for workflow calculations, reflects how employers used the system, and will be helpful in monitoring and compliance activities.

[21] See Appendix B.

[22] The transaction and related data were provided by the E-Verify systems contractor.

[23] See Section 3.4.5 of this chapter for a discussion of standard errors used in this report.

cleaning routines described in Appendix B. However, cleaning the historical data using updated cleaning routines does not avoid any changes in the accuracy of the Transaction Database information captured by E-Verify over time.

## 2.3. Employer Registration Data

When employers register for E-Verify, they are required to provide basic descriptive information, including type of industry, number of employees, location, and number of sites.[24] The evaluation team cleaned the registration database of obvious errors, such as duplicate registrations. Although the database contains information for all E-Verify registered employers and is, therefore, not subject to sampling error, it is subject to measurement error.

## 2.4. System Testing

The evaluation team did limited system testing to clarify E-Verify procedures. Findings from these analyses were used only indirectly in the report.

## 2.5. Document Reviews

Several documents were reviewed for the evaluation:

- Manuals used by SSA and USCIS staff explaining E-Verify procedures;

- Employer and worker materials used in E-Verify;

- Logs maintained by OSC within DOJ; and

- Federal documentation on databases and systems.

The OSC logs of calls to their hotline are less subject to recall bias than cases described by Service Representatives and MPAs, since these logs are completed at the time of contact with the worker. However, it is reasonable to assume that only a small percentage of workers receiving erroneous TNCs contact OSC. Therefore, cases reported to OSC are not necessarily representative of all erroneous TNC recipients. Furthermore, it was not always possible for OSC to determine the reason for a TNC. Despite its limitations, this information source provides more insight into reasons for name and date of birth-related TNCs than can be obtained solely from examination of the quantitative data.

## 3. MEASUREMENT AND DATA ANALYSIS

## 3.1. Introduction

This section explains the measures and indicators used in the evaluation that were not as straightforward as the other measures used in the analyses such as continuous variables (e.g., number of transactions) and categorical variables (e.g., industry).

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[24]This information is sometimes incomplete for those employers using an E-Verify Employer Agent to register them. An E-Verify Employer Agent is an individual or company that processes E-Verify cases on behalf of employers.

record can be located corresponding to the A-number, I-94 number, or alternate identifier input by the employer. However, similar information is not available for cases that are subject to SSA verification against Numident information.

The Transaction Database information is used to classify workers who did not automatically receive a finding of employment authorized into a number of detailed categories. The starting point of the classification was the information coded during the automatic match. This was supplemented by other information on the Transaction Database, including information on immigration status. Detailed categories with few cases were combined with similar categories. For example, two categories for expired documents were combined. The mutually exclusive case characteristics for cases not automatically found employment authorized are the following:

**Number invalid or not located**

- SSN invalid or cannot be located on Numident

- A-number not found

- I-94 number not found

- Multiple numbers on DHS databases not found (e.g., neither I-94 number nor receipt number)

**Biographic mismatches**

- SSA name mismatch

- SSA date of birth mismatch

- SSA date of birth and name mismatch

- USCIS name mismatch

- USCIS date of birth mismatch

- USCIS date of birth and name mismatch

**Employment-authorization status cannot be confirmed**

- Employment authorization of worker attesting to be a citizen not confirmed

- Worker attesting to be a noncitizen is shown in USCIS databases to be a U.S. citizen

- Employment Authorization Document (EAD) expired/not located

- Noncitizen not automatically authorized by Image Storage and Retrieval System (ISRS), which does not capture immigration status information

- Noncitizen not automatically authorized: student visa

- Noncitizen not automatically authorized: exchange visitor

- Noncitizen not automatically authorized: other immigration status that does not clearly identify worker as being employment authorized

- Immigration status indicates not employment authorized

**Employer-referred review**

- Employer indicates that E-Verify and document photographs do not match during the Photo Matching process

- Employer refers case for second-level review because names do not match

In some cases, case characteristics are further classified to provide more detailed information about cases in a category. The most complex subcategory is for types of name, which is discussed in the next section.

The USCIS category of "name mismatch" includes cases that did not match on both name and date of birth. The evaluation team recoded the cases initially coded as name mismatches into the two categories of "name only mismatch" and "mismatch on both name and date of birth" based on Transaction Database information about the date of birth.

### 3.4.    Classification of Names

### 3.4.1.   Introduction

Two types of name classifications were used in this report. The first name classification was based solely on the name initially submitted to E-Verify. The second name classification involved comparisons of the submitted name with names available on the Transaction Database. Each type is discussed here.

### 3.4.2.   Characteristics Based on Initially Submitted Name

Characteristics of the original name submitted to E-Verify were limited to what could be defined by examining a single version of the name. Examples include names with suffixes and names with long strings of consonants. These classifications were used to determine whether certain types of names were error prone and the categories were not mutually exclusive.

### 3.4.3.   Characteristics Based on the Comparison of Two Names

Name characteristics based on matching of two versions of the name were used to characterize cases in which there was a name mismatch. For cases in which SSA resolved a TNC, the comparison was made between the name originally submitted and the name submitted at the time the case was found to be employment authorized. For USCIS cases, the initial name submitted to E-Verify was compared with information on the Federal database where the case was located.

To ensure mutually exclusive name classification categories, name-matching assumptions followed to the extent possible the order in which name checking was performed in E-Verify. For example, the first step was to check on cases with suffixes, because a case was only defined as a suffix case if there was a space

prior to common suffixes such as "Jr." or "IV." Once this was done, identified suffixes were deleted from the names. If the two names could be matched with the suffix deleted, the name was classified as a suffix case and no further examination was required. If two names did not match with the suffix deleted, standardized names were calculated by deleting all non-alpha characters (from cases other than suffix cases) to determine how many cases would match if both suffixes and punctuation had been eliminated. If the names matched after this step, it was classified as a punctuation mismatch. Additional steps were done to determine the name characteristics for the remaining cases. The resulting categories produced mutually exclusive name classifications.

### 3.4.4.   Differences Between Citizens and Noncitizens

Erroneous TNC rates for citizens and noncitizens were calculated from information available on the Transaction Database. To identify what types of cases contributed most to the gap in TNC rates, the evaluation team estimated the percentages of employment-authorized workers receiving FNCs by reasons for not initially being found employment authorized and citizenship status. For example, the percentage of employment-authorized citizens receiving mismatches because of name mismatches are compared with the same percentage for noncitizens.

### 3.4.5.   Standard Errors

Standard errors were calculated using standard statistical methodology. In calculating standard errors for the model-based FNC accuracy rates, the evaluation team first calculated standard errors for the percentage of TNC cases resolved, which is the sample-based statistic used in estimating the number of employment-authorized and unauthorized workers receiving FNCs. Next, the FNC rate associated with a TNC resolved rate one standard error above the observed rate was calculated. The absolute value of the difference between these two FNC rates is used as the standard error for the FNC rate.

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# CHAPTER III. FINDINGS ABOUT E-VERIFY ACCURACY

## 1. INTRODUCTION

Information on E-Verify procedures was provided in Chapter I and the methodology used to conduct this evaluation was discussed in Chapter II. Key findings from the evaluation of E-Verify accuracy rates are presented in Chapter III. The chapter first discusses the overall accuracy of E-Verify and then examines findings related to the accuracy of the three types of reviews conducted in E-Verify: automated reviews, U.S. Citizenship and Immigration Services (USCIS) second-level reviews, and USCIS Tentative Nonconfirmation (TNC) reviews (also referred to as USCIS third-level reviews) and SSA TNC reviews. Finally, the chapter discusses the accuracy of findings for unauthorized workers.

Possible strategies for improving the E-Verify Program are also discussed in this chapter. This discussion touches on key recommendations that are summarized in Chapter V, as well as supplementary recommendations, such as minor improvements and alternative E-Verify modifications that could be considered in lieu of the recommended modification(s).

## 2. OVERALL FINDINGS

### 2.1. Introduction

This section presents overall findings for E-Verify accuracy using two indicators of accuracy:

- **The erroneous TNC rate** is the percentage of workers ever found to be work authorized who received a TNC prior to being found work authorized.[28] In previous evaluations, the erroneous TNC rate was the primary measure of E-Verify accuracy and is used in this report for trend analysis due to the availability of current and historical data.

- **The Final Nonconfirmation (FNC) accuracy rate** is the percentage of workers receiving FNCs who are unauthorized workers. This rate is the primary indicator of accuracy in this report. This rate has two advantages: (1) it emphasizes the final case finding (instead of an interim finding); and (2) it can be calculated for a broader range of subgroups, thereby permitting more detailed analysis. As the FNC accuracy rate requires model-based estimates, its validity is limited by the model's assumptions.[29]

Section 3 of this chapter examines differences in E-Verify accuracy rates for citizens, lawful permanent residents (LPRs), and other noncitizens. This information is provided because the original legislation for E-Verify[30] specified that electronic employment verification programs should not be discriminatory and because there is continuing concern among some stakeholders about discrimination.

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[28] See Chapter II for a discussion of the rates used in this report.

[29] For additional information on the model used, see Appendix C of the *Findings of The E-Verify® Program Evaluation*, December 2009, (http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=3a351e56d3856210VgnVCM100000082ca60aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD).

[30] In 2007, the Basic Pilot Program was renamed E-Verify. Along with the new name, the Program added more features. More information on the history of E-Verify can be found at http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=84979589cdb76210VgnVCM100000b92ca60aRCRD&vgnextchannel=84979589cdb76210VgnVCM100000b92ca60aRCRD.

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### 2.2.    Accuracy

**The erroneous TNC rate for E-Verify in fiscal year (FY) 2009 was 0.3 percent and has been declining over time.** As seen in Exhibit III-1, the erroneous TNC rate declined from 0.7 to 0.3 percent between April through June 2005[31] and April through June 2010.[32]

**Exhibit III-1. Erroneous TNC Trend: July 2004–June 2010**
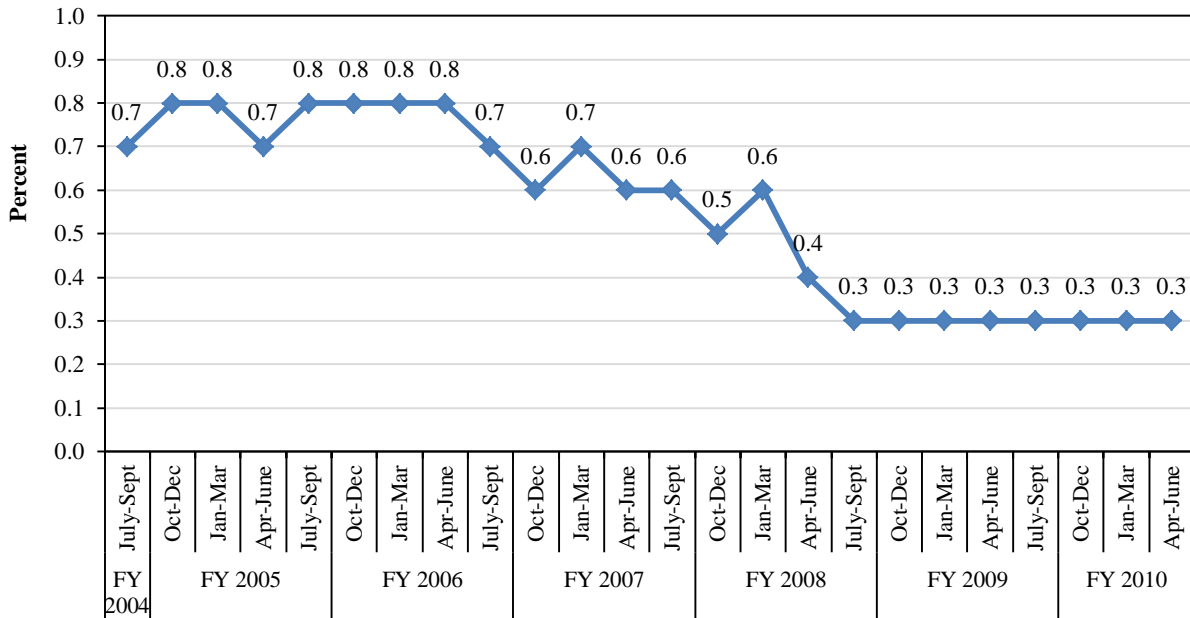


SOURCE: E-Verify Transaction Database: July 2004–June 2010.

**The FNC accuracy rate in FY 2009 was approximately 94 percent.** The evaluation team estimated that 94 percent of FNCs were accurately issued to unauthorized workers and 6 percent of FNCs were inaccurately issued to employment-authorized workers (Exhibit III-2).

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[31] April through June 2005 is the earliest April–June quarter available after the start of E-Verify.

[32] April through June 2005 data are used for comparison with April through June 2010 data in order to avoid changes attributable to seasonality.

**Exhibit III-2. Estimated Employment-Authorization Status of Workers Receiving FNCs: FY 2009**
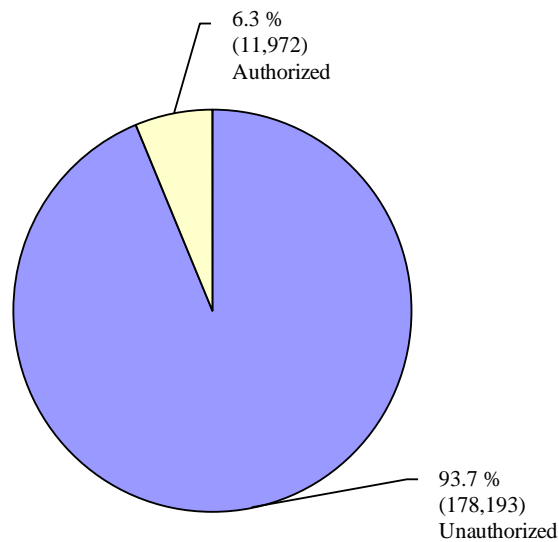


SOURCE: E-Verify Transaction Database: FY 2009.

## 2.3.    Accuracy and Citizenship Status

Since the pilot programs first began in 1992, there were concerns that electronic employment verification would be more problematic for employment-authorized noncitizens than for U.S. citizens. These concerns have persisted.[33] This section examines the extent to which inaccuracies in the E-Verify process contribute to inadvertent discrimination.[34] Because model-based information necessary for calculating the FNC accuracy rate is not available for earlier years of the E-Verify Program, the erroneous TNC rate was used to analyze discrimination patterns across groups.

**Erroneous TNC rates in FY 2009 were markedly higher for LPRs and other employment-authorized noncitizens than for U.S. citizens.** As seen in Exhibit III-3, the erroneous TNC rate (i.e., the percentage of workers ever found employment authorized that were found employment authorized after receiving a TNC) was 0.2 percent for U.S. citizens compared to 0.7 percent for LPRs and 4.2 percent for other employment-authorized noncitizens. The rate for all noncitizens was 1.5 percent.

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[33]These concerns were expressed to the former Immigration and Naturalization Service (INS) and Congress by a variety of civil and immigrant rights groups during the testing of the pre-Illegal Immigration Reform and Immigrant Responsibility Act of 1990 (IIRIRA) pilot programs and by a group of Federal civil rights and privacy professionals advising the Administration on the implementation of the IIRIRA employment verification pilots. See also Karen L. Miksch, *INS Pilot Programs for Employment Eligibility Confirmation*, Carnegie Endowment for International Peace, International Migration Policy Program, November 1998, page 17 and Appendix B, and *Immigration and America's Future: A New Chapter, Report of the Independent Task Force on Immigration and America's Future*, Doris Meissner, Deborah W. Meyers, Demetrios G. Papademetriou, and Michael Fix, Migration Policy Institute, September 2006, page 48.

[34]Discrimination does not require that an action is intended to harm a group of protected individuals; it can also occur unintentionally when an act creates greater harm to protected than to nonprotected groups.

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**Exhibit III-3. Erroneous TNC Rates, by Form I-9 Birth/Citizenship Status: FY 2009**
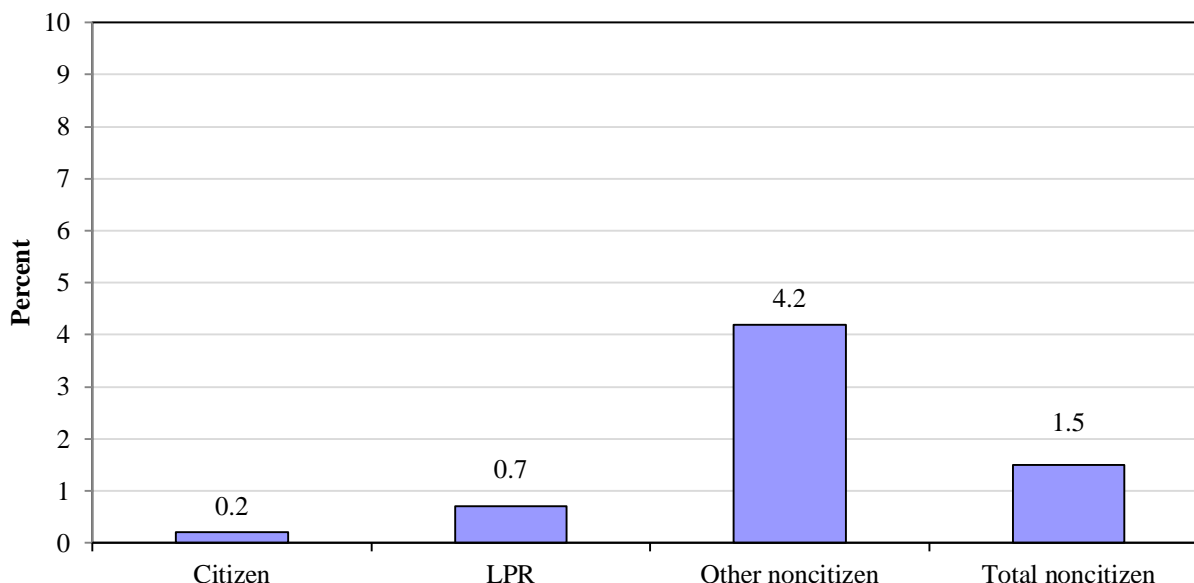


SOURCE: E-Verify Transaction Database: FY 2009.

**The erroneous TNC rate[35] for U.S. citizens declined over time; however, there was little change in the erroneous TNC rate for noncitizens.** The erroneous TNC rate for U.S. citizens decreased from 0.6 percent in April through June 2005 to 0.2 percent in April through June 2010 (Exhibit III-4). For LPRs, there was little change—the rate was 0.8 percent in April through June 2005 and 0.9 percent in April through June 2010, with considerable fluctuation between the two dates. For other noncitizens, the erroneous TNC rate was 4.2 percent in April through June 2005 and 5.4 percent in April through June 2010, with rates for the intermediate dates ranging from 3.0 to 7.1 percent. For all noncitizens, the erroneous TNC rate was 1.5 percent in April through June 2005 and 2.0 percent in April through June 2010, with considerable fluctuations in the rates during the intermediate period.

One reason for the observed fluctuations in the LPR and other noncitizen rates was the relatively small number of cases in these categories when compared to citizens, making it difficult to differentiate random fluctuations from meaningful differences. When the two noncitizen categories were combined into the total noncitizens group, the fluctuations persisted, but were less dramatic. For this reason, the remainder of the report will only distinguish between citizens and all noncitizens.

Although many factors affect accuracy rate trends, two E-Verify changes are likely to account for a significant part of the difference in the trends for citizens and noncitizens. First, in October 2005, USCIS implemented a review of employment authorization records to determine the status of all noncitizens whose Social Security numbers (SSNs) and biographic information were consistent with SSA records. Prior to that time, USCIS did not verify against its records the current employment-authorization status for noncitizens whose SSA records indicated permanent employment authorization at the time SSA issued the SSN card. This change resulted in increased numbers of TNCs issued to both employment-authorized and unauthorized noncitizens and an increase in the erroneous TNC rate for noncitizens. The second change that affected the erroneous TNC rate for citizens involved the implementation in April through June 2008 of a review of USCIS naturalization databases for cases in which SSA could not confirm the

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[35] Because model-based information is not available for early years of the E-Verify Program, erroneous TNC rates will be used in this section.

citizenship status for workers attesting to be citizens. [36] This change resulted in a dramatic decrease in the erroneous TNC rate for naturalized citizens.

**Exhibit III-4.   Erroneous TNC Rates, by Attested Citizenship Status: July 2004–June 2010**
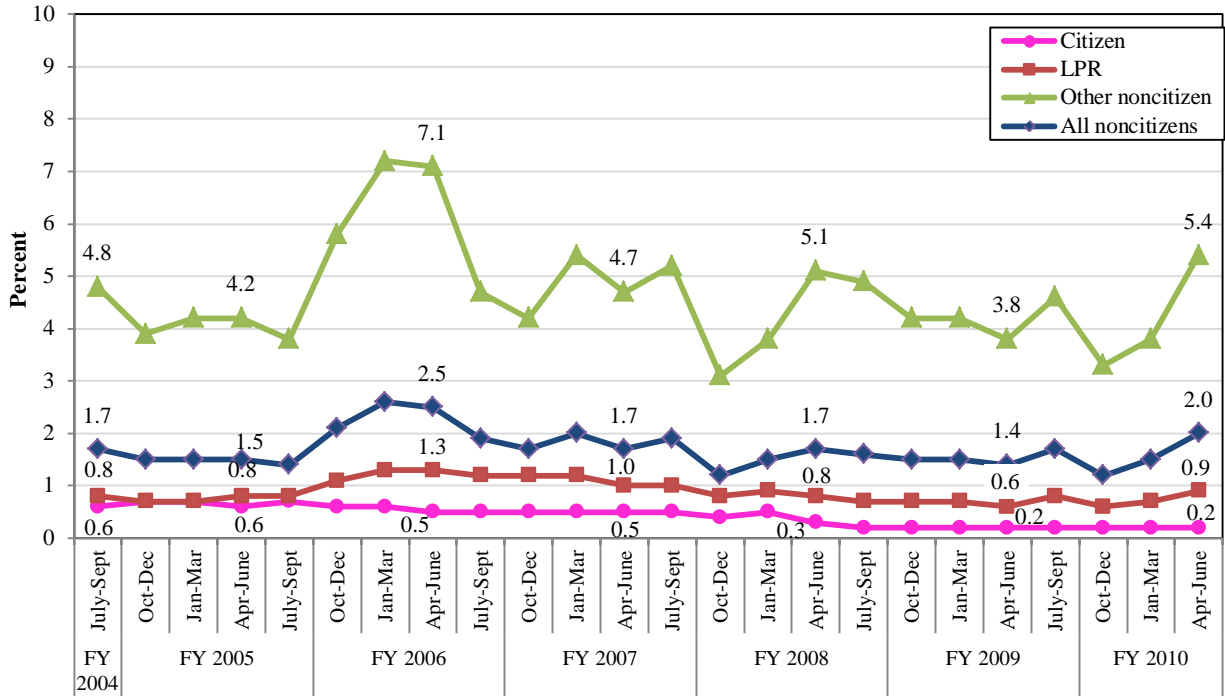


SOURCE: E-Verify Transaction Database: July 2004–June 2010.

**As discussed in the December 2009 report,[37] aiming for equal erroneous TNC rates for all employment-authorized workers who are members of protected groups based on their citizenship status is not a practical goal.** U.S. citizens are inherently authorized to work and are only required to provide SSA with documentation of their birth in this country once. Noncitizens in the United States, however, frequently change their immigration status, which also affects their employment-authorization status. Nevertheless, reducing the differences in accuracy rates between U.S. citizens and foreign-born workers, without jeopardizing the ability of E-Verify to detect unauthorized workers, has been a continuing E-Verify goal.[38]

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[36]This modification to the E-Verify process began in April through June 2008.

[37]*Findings of the E-Verify Program Evaluation,* December 2009
(http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=3a351e56d3856210VgnVCM100000082ca60aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD).

[38]See Chapter IV, Section 4.2, for additional information on differences between citizen and noncitizen accuracy rates.

# 3.   ACCURACY OF E-VERIFY REVIEW STAGES

## 3.1.   Introduction

Overall, E-Verify accuracy requires that the following reviews be performed accurately:[39]

- Automated review—an automatic comparison of information input by the employer with selected Federal databases;

- USCIS second-level review—for USCIS cases not found employment authorized by the automated review, a second-level review of cases by Management Program Assistants (MPAs) using additional databases is done to determine whether or not there is adequate information to verify the worker's employment authorization without a TNC being issued; and

- TNC resolution process reviews—reviews being done during the TNC process for contested cases.

The remainder of this section examines each of these reviews.

## 3.2.   Automated Review

### 3.2.1.   Introduction

Accurate findings at the automated stage are dependent upon:

- The design and instructions for completing relevant forms and their correct and legible completion by applicants, employers, and/or immigration officers;

- The accuracy, timeliness, and completeness of data in the databases used in the automated match;

- The accuracy of information on the Form I-9 input by the employer, which depends on both the accuracy of the information the worker provides and the accuracy of the employer's data entry; and

- The rules used during the automated process to determine whether the worker is employment authorized.

This section examines issues related to these four factors.[40]

### 3.2.2.   Form Design

#### 3.2.2.1. Introduction

Federal database information used in the automated E-Verify review (i.e., names, dates of birth, unique identifiers such as SSNs and A-numbers, and information related to workers' employment-authorization

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[39] For cases found employment authorized without a TNC, the employer also reviews the photograph returned by E-Verify to determine if it matches the photograph on the documents used by the worker to establish identity and, for noncitizens, evaluates whether the E-Verify name returned is consistent with the name submitted on the Form I-9. These issues are discussed in Chapter IV.

[40] The review of selected cases by employers could be viewed as a fourth review stage. The accuracy of this stage will be discussed in Chapter IV, Section 3.6.

status) usually comes from handwritten forms or data input by applicants for SSN cards, immigration and citizenship benefits, or admission to the United States. Data from these forms are typically input into one of several systems, each with its own data conventions, and accessed by the Verification Information System (VIS) that supports E-Verify or by an MPA during second- or third-level review.

The accuracy and legibility of information provided on forms and documents affect whether E-Verify cases are likely to clear automatically or result in erroneous TNCs. This section summarizes findings about data formats and the guidance Federal agencies provide for inputting this information on major forms feeding SSA, USCIS, Customs and Border Protection (CBP), and Department of State systems and subsequent immigration document production.[41]

### 3.2.2.2. Findings

**Illegible or ambiguous handwriting on original documents and Federal forms can lead to data input errors and E-Verify mismatches.** There is considerable variation in how data are entered into Federal databases. Although the Department of State and USCIS now have the capability for some forms to be completed online, many immigration and citizenship forms are completed by hand. Handwritten information may be illegible or ambiguous to data entry staff, resulting in database errors. For instance, illegible completion of the CBP Form I-94 (Arrival/Departure Document), which comprises the database for most nonimmigrants, poses a particular challenge for persons not fluent in the Roman alphabet. CBP inspectors handwrite on the Form I-94 the immigration class of admission and the date by which the nonimmigrant must depart the United States and these, too, can be misinterpreted at the time of data entry, particularly since there is no corroborating evidence against which to easily check Form I-94 information. Current SSA practices are more likely to engender accurate data entry. To help prevent errors due to misinterpretation of handwriting, SSA field office staff provide a computer printout of the information that will appear in the record and on the SSN card so the recipients can confirm its accuracy.

**The design of official forms sometimes results in data mismatches and erroneous TNCs during the E-Verify matching process.** Few Federal forms for immigration and citizenship benefits provide sufficient space to clearly write compound or very long names. Additionally, many forms, including the Form I-9, do not have separate spaces for providing first, middle, and last names, which can result in confusion at data entry as to whether a name segment is part of a first, middle, or last name in a compound name. Similarly, most Federal forms request date of birth in mm/dd/yyyy format but do not provide slashes or hyphens on the form as guides. A notable exception is the Form I-9, which uses date in month/day/year format, but is ambiguous to workers as to whether months should be written in numerical or word format, and may lead to confusion or transposition errors when employers input the date into the requested mm/dd/yyyy format in E-Verify.

**Guidance for providing information on forms is not consistently clear.** Most forms lack sufficient guidance on the form itself or in the instructions to cover commonly encountered problems. These problems are particularly great for completion of the Form I-9, which is the key document used by employers for E-Verify. During interviews, MPAs noted that some noncitizens with very long names use only a segment of that name as their "official" name after entry into the United States and use this name on the Form I-9. The Department of State provides more guidance on completing biographic and numerical information on visa and U.S. passport forms than DHS. For example, the Department of State Visa Office requests family, first, and middle names in a single box on the application for an immigrant visa, but verifies the information against the applicant's passport prior to entering it on the immigrant

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[41]More detail is available in Appendix A.

visa. The online nonimmigrant visa application also provides guidance that each part of the name is to be listed as shown in the individual's passport and has separate boxes for surname and first and middle name. Examples of listing a compound surname are shown on the screen, and instructions are also provided for cases where there is only one name listed in the passport.

### 3.2.2.3. Possible Improvements

**One way to improve data input accuracy is to revise USCIS and CBP forms and related instructions, preferably with assistance from an external expert in form design.** Recommended changes to the forms that are the source of information used in E-Verify include leaving adequate room for input of required information, clearly labeling fields to be entered, using boxes and hyphens to provide input guidance, and providing clear instructions on commonly encountered problems such as entering compound names. The ongoing review of the Form I-9 and its instructions is especially critical because of its central role in E-Verify.

**Greater standardization in how names and dates of birth and identification numbers are requested on Federal forms would also help reduce TNCs and FNCs to authorized workers.** The variation in ways of requesting names and dates of birth on Federal documents increases the likelihood of biographic mismatches. Furthermore, greater standardization of biographic data in Federal systems would benefit other Federal programs, including national security initiatives.

### 3.2.3.  Database Accuracy, Timeliness, and Completeness

### 3.2.3.1. Introduction

Data on noncitizens are maintained in multiple DHS databases and uploaded regularly[42] into the USCIS VIS for use in the automated response to E-Verify queries. These four databases are the Central Index System (CIS), the Image Storage and Retrieval System (ISRS),[43] TECS, and the Advanced Passenger Inspection System (APIS). Three additional databases have been added to the automated checking process to help confirm U.S. citizenship when a worker attests to being a U.S. citizen on the Form I-9 but SSA is unable to confirm citizenship status. These databases are the USCIS Computer-Linked Application Information Management System (CLAIMS4), the USCIS Redesigned Naturalization Automated Casework System (RNACS), and Department of State U.S. passport issuance data maintained by CBP.[44]

### 3.2.3.2. Findings

**Maintaining accurate, timely, and complete information on biographic data and immigration and citizenship status are major challenges for Federal databases accessed by E-Verify.** The reasons for these challenges include lack of clear guidance to the public for informing SSA and immigration agencies of changes in name and the dynamic nature of immigration status. Many noncitizens change their immigration status or authorized period of stay multiple times while they are in the United States and may ultimately become U.S. citizens. It is also possible for noncitizens who have lawfully entered the country to have periods when they are not lawfully present. This creates challenges for maintaining up-to-date employment-authorization status for some groups of noncitizens.

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[42]Updates are uploaded nightly with the exception of APIS data, which are updated in real time.

[43]Image Storage and Retrieval System is now known as the Customer Profile Management System (CPMS).

[44]See Chapter I and Appendix A for further information about these systems.

**SSA's initial enumeration process is highly accurate, but the accuracy of its information decreases over time as name and immigration and citizenship information change and are not reported to SSA.** Prior to using enumeration data for SSA, USCIS, and other agency verification purposes, SSA was reluctant to encourage updates to immigration or citizenship status prior to the time an individual applies for Social Security benefits (at which time SSA verifies lawful presence and current work-authorization status) because they do not view such updates to be essential for their core mission purpose and because of the increased workload for its field offices. However, SSA now includes instructions on materials sent with the SSN card encouraging reporting of immigration and citizenship status changes along with legal name changes, all of which currently require an in-person visit by the number holder with official proof of the legal change to be made to the Numerical Index File database (Numident) record. SSA-approved wording is also contained in USCIS materials given to new citizens to encourage them to visit SSA to update their citizenship status and any name changes made as a part of the naturalization process.

**Immigration-related systems and databases were typically designed as case tracking systems, which made their use for verification both cumbersome and difficult.** The four primary databases used by E-Verify collectively contain information on most noncitizens and recently naturalized citizens, but are independent of one another, use different sources of information, and have different degrees of accuracy, timeliness, and completeness. Challenges in using immigration data relate to database and system design, how data are sent to and entered into systems that can result in significant delays in data availability, and how government systems interact with each other both between and within agencies. The various inter- and intra-agency immigration systems do not always interface well. Problems are exacerbated because the systems with information on noncitizens and naturalized citizens are maintained by three DHS components as well as the Departments of State and Justice, each with its own system priorities and privacy and data sharing concerns.

**Although most databases used in the automated E-Verify process are updated promptly with new status information about noncitizens, there are significant lags in entering information into some of the key databases.** When decisions concerning noncitizens' status, such as changes affecting employment status and length of authorized stay in the United States, are updated in a system as part of case completion, the relevant information is usually available to E-Verify promptly. However, most updates involve one or more uploads from a USCIS or other agency case tracking system into CIS, which adds time, especially if there are problems with uploads.

**Efforts have been made to make some nonimmigrants' (individuals in the United States on a temporary basis for specific purposes) arrival data available more quickly in DHS databases, but their success has been spotty.** Efforts have been made to make nonimmigrant data accessible to E-Verify more quickly through addition of passenger arrival data in APIS, which is available as soon as nonimmigrants enter the United States, and through electronic submission of Form I-94 data at land ports of entry. Although these measures have helped improve timeliness of data on nonimmigrants, delays in TECS data availability of 10 to 14 days remain the norm for nonimmigrant arrivals at sea and airports. These delays result from a largely manual process to mail and prepare millions of Form I-94 documents for data entry at a central facility in addition to time to upload the data. While APIS data are helpful in resolving some E-Verify cases, they may relate to an earlier admission and are less accurate for class of admission and duration of stay information, which are key elements in verification.

**Improvements have also been made to increase the timeliness of data for new permanent residents, but significant lags remain.** Although efforts have been made to improve the timeliness of database information for new permanent residents, including both those arriving with visas and those adjusting status, data lags of up to six weeks still persist. Reasons for the data lags include mailing times,

patchwork fixes, and processing delays that involve sequential uploading of some adjustment-of-status data two or three times before entering the information into CIS.

**DHS systems do not always have accurate data on the current immigration status of noncitizens.** CIS is a searchable mainframe database uploaded from other immigration systems and the primary USCIS source of information on all noncitizens other than nonimmigrants. However, CIS does not always contain the latest status updates from USCIS benefits case tracking systems (CLAIMS3 and Refugee, Asylum, and Parole Systems (RAPS)), Immigration and Customs Enforcement (ICE) student (SEVIS) or detention and removal case tracking systems (ENFORCE), changes made to CBP nonimmigrant data (TECS), or from the results of Executive Office for Immigration Review immigration hearings (RMIS). In these cases, uploads to the CIS may be delayed by data input and uploading processes, or the transfer of data between systems may fail initially. Transfer of some CLAIMS3 data relies on patchwork internet transfer of final case information from field offices to a local area network and then to the CIS, which also creates opportunities for loss or delay of information.

### 3.2.3.3. Possible Improvements

**Improved timeliness and accuracy of DHS databases will require agencies to make database use for verification of status a priority as systems are reengineered.** For over 10 years, USCIS has been working on reengineering several of its case management systems to provide person-centric information that is accurate and up to date and that is fed directly into a central database.

**USCIS should evaluate the results from the E-Verify Self Check service pilot implemented in March 2011 to determine its effectiveness in improving E-Verify accuracy.** The E-Verify Self Check service has the potential to significantly improve the accuracy of E-Verify for employment-authorized workers by permitting them to find out if their information on SSA and DHS databases is accurate. However, like any significant program change, the pilot program needs to be evaluated to determine its cost-effectiveness before making it a national program. Specific issues that should be examined include the following:

- Do employment-authorized noncitizens and foreign-born citizens take advantage of Self Check, since these workers are much more likely to receive erroneous FNCs under the current Program than are U.S.-born workers?

- Does it appear that employment-authorized noncitizens are not changing their DHS records because of the high fees charged for changing their record and documents?

- What are the differences in Self Check use between states with mandatory E-Verify and other states?

- What are the workload and cost implications for SSA and USCIS? Are these likely to be short-term or ongoing costs?

- Are there fewer TNCs in states where the Self Check service is being piloted?

**USCIS may find it worthwhile to follow the example of SSA Service Representatives who report that they have cut down on SSA data errors by having applicants review the information entered prior to finalizing the submission of the information to Numident and printing the SSN card.** USCIS procedures for interviewing clients and approving benefits are sufficiently different from SSA's that they cannot follow the SSA procedure of having clients verify printouts at the time that they request a card or change in database information. However, USCIS may want to consider possible means of allowing customers to verify information prior to card production.

### 3.2.4.  Employer Input Accuracy

### 3.2.4.1. Introduction

Even if Federal data were completely accurate, inaccuracies would arise because employers do not always enter Form I-9 data accurately. If identifying numbers are input incorrectly, E-Verify will not be able to locate a case; if biographic information is incorrect, the case may not be considered matched during biographic matching. This section discusses general issues related to employer input data in addition to the form design issues discussed in Section 3.2.2.

### 3.2.4.2. Findings

**The E-Verify manual does not present all situations that employers are likely to encounter in entering biographic information into E-Verify.** The manual provides employers with information about how to handle the following situations:

- Entry of names that include hyphens, apostrophes, prefixes, name stems, periods, and suffixes;

- Checking to see that first and last names are input in the proper order;

- The need to review information for accuracy;

- How they can "correct" any data entry errors they may discover; and

- Their obligation to continue the Form I-9 review in addition to using E-Verify.

Examples of situations not covered by the manual include instructions for:

- Handling workers who have only one name, as occurs in some cultures; and

- Dealing with different combinations of names listed on multiple documents that belong to an individual or if the order of the names is not the same on the documents.

### 3.2.4.3. Possible Improvements

**Reviews of the employer manual, the tutorial, and other employer materials in light of the findings of this report and findings of the USCIS monitoring and compliance unit may point out ways to improve employer materials to assist in reducing employer input errors.** USCIS frequently revises employer resource materials to reflect program changes and to address issues that may not have been clear in prior materials. There should probably be increased emphasis on the importance of employers' reviewing the Form I-9 for legibility and checking that information provided on the Form I-9 is consistent with that on the documents presented.

**Additional outreach to workers to encourage them to update their Federal records and to be more careful in completing the Form I-9 should be helpful in reducing employer input errors.** USCIS has made some effort at outreach to workers via the mass media. Especially if E-Verify were to become mandatory, additional efforts would be helpful in making workers aware of the need for keeping their Federal records up to date and taking care in filling out the Form I-9. Even in the absence of a mandatory

program, a worker outreach campaign on this issue may be worth considering in conjunction with the publicity campaign for the Self Check pilot program.

Form design changes are likely to improve employer input accuracy. These changes are discussed earlier in this chapter in Section 3.2.2, and additional information about specific types of input errors is contained in Chapter IV. An additional change to the Form I-9 that might help improve accuracy relates to the use of an electronic Form I-9:

**USCIS may wish to explore the feasibility of developing software to produce electronic Form I-9s and making the software available without charge to employers and encouraging them to use this service.** Congress approved the use of electronic Form I-9s in 2004. While several commercial enterprises have developed electronic I-9s meeting the regulatory standard, USCIS has not yet developed one that would be available free of charge to any employer. Electronic Form I-9s are beneficial in that they reduce illegible or ambiguous handwriting and provide an opportunity for review for accuracy prior to completion and submission of information to E-Verify. It is also likely that at least in some cases the worker's electronic Form I-9 information would be part of general human resources data input for new hires and would be checked more closely for accuracy.

### 3.2.5. Decision Rules Used During the Automated Process

### 3.2.5.1. Introduction

During the automated phase of E-Verify, the verification process is governed by a series of decision rules that specify what order databases are checked, what algorithms should be used in deciding whether any differences between information on the Form I-9 and the Federal databases is likely to be attributable to human error (e.g., letter reversals within a name), and what Federal information is adequate to determine that the worker is employment authorized. These decision rules are examined in this section. Because SSA and USCIS do not want to publicize these rules, some of the specifics of the decision rules are not contained in the report.

### 3.2.5.2. Findings

**Because E-Verify searches multiple but not all databases in the process of determining employment authorization, all relevant information for an individual may not be used in the verification process.** More specifically, the E-Verify system searches the primary databases that constitute the VIS and only checks supplementary databases for a case if it cannot locate an A-number or a Form I-94 number in the primary databases.[45] However, there may be information such as name or status changes contained on supplemental databases that would be useful in verifying workers but that are not captured in the initial database checked, potentially resulting in unnecessary erroneous TNCs.

**Some decision rules used in E-Verify matching processes to determine if cases should be considered employment authorized may not be optimal in all cases.** As discussed in Chapter I, it is not unusual for automated matching routines to use algorithms when matching data from two different sources. These algorithms are used to avoid high numbers of mismatches attributable to minor differences between the two sources. Two types of matching errors are possible—a match is not made when there should be a match (i.e., a TNC is issued for an employment-authorized worker) or a match is made when there should

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[45] This is a simplification of the procedures, which are used in most cases. E-Verify uses a fairly complex algorithm to identify cases in the supplemental databases. Supplemental databases are also used to identify inconsistencies between databases.

not be a match (i.e., a worker without employment authorization is found to be employment authorized because the algorithm is too lenient).

### 3.2.5.3. Possible Improvements

**The rules used in the automated process could be reviewed in light of the findings in this report to determine if modifications are desirable.** Since many of the rules used in the automated process are fairly specific and related to case characteristics, these rules and additional possible improvements to them are discussed in the detailed analyses in Chapter IV.

### 3.2.6.    Integration of SSA and DHS Databases and Procedures

### 3.2.6.1. Introduction

The original recommendation of the Commission on Immigration Reform in 1994 was to develop a single database based on SSA data to use in electronic verification to determine the employment-authorization status of workers. At that time, the then Immigration and Naturalization Service (INS) and SSA indicated that this was not feasible in the short run because of differences in the identifying numbers used for searching records by the two agencies (SSN for SSA; A-number and Form I-94 number for INS). At that time, it was decided to initially use the two databases separately but to move toward an integrated system, which would take five to seven years.

The impacts of the lack of integration between SSA and USCIS are not easy to determine; however, the evaluation team was able to look at one specific situation in which there is conflicting case information between the two agencies. When the Basic Pilot Program was started, noncitizen cases with SSA information indicating that they had permanent employment-authorization status were considered employment authorized. However, a few years later the then INS became aware that this process resulted in finding some unauthorized workers to be employment authorized. Three situations could explain such cases arising:

- Unauthorized workers may purchase fraudulent identity documents with an SSN, name, and date of birth for an employment-authorized worker but not obtain valid immigration information for the same worker;

- Two or more workers at the same place of employment may use the same fraudulent identity documents with valid information; or

- Permanent resident status could be revoked and/or a permanent resident could be deported, which would not be reflected in SSA Numident data.

On the basis of these cases, a policy change was made in October 2005 to have USCIS verify the current employment-authorization status of all cases in which the worker claimed to be a noncitizen. The current USCIS procedures for verifying noncitizen cases do not distinguish between cases that SSA records indicate have permanent employment-authorization status and those that do not. The increased rigor of the modified procedures was expected to increase the number of FNCs for unauthorized workers; however, the increased rigor also had the potential of decreasing the number of employment-authorized noncitizens receiving FNCs. The results of this analysis are included below.

### 3.2.6.2. Findings

**Movement toward an integrated SSA-USCIS employment verification system has never been made, and neither agency has plans for one in the future.** Part of the reason that an integrated database has not been developed is because the current E-Verify system using separate SSA and DHS database checks is believed to be working well. Furthermore, coordination between DHS and SSA on verification issues has always been less than optimal because of the vastly different missions of the two agencies.

**One area in which the Department of State, SSA, and DHS have improved is in requiring the use of an individual's given legal name on official documents.** Individuals must now use their full legal names on applications for SSNs, visas, U.S. passports, USCIS immigration and citizenship benefits, and CBP arrival and departure forms. However, use of the legal name is not required for the Form I-9. USCIS reports that new instructions will be issued later in 2011 to advise workers to use their full legal name on the I-9.

**The lack of an integrated data system has had some negative impacts on E-Verify accuracy.** For example, if a worker informs SSA of a name change, this information is not officially conveyed to USCIS to update USCIS records or for use in determining if the Form I-9 name matches the agency's information. Similarly, when noncitizens obtain permanent work-authorized status or become naturalized citizens, SSA is not notified by USCIS of the change.

**Workers attesting to be noncitizens must meet both SSA and USCIS criteria for whether the case information on the Form I-9 matches information on Federal databases.** U.S.-born workers only have to meet SSA criteria during the biographic matching process, foreign-born citizens must meet SSA and USCIS criteria if their SSA records do not reflect the fact that they have naturalized, and all noncitizens must meet both SSA and USCIS criteria. Whether the Form I-9 biographic information is considered valid depends not only upon differences in SSA and DHS databases, but also upon the criteria the agencies use in determining whether approximate matches are adequate for considering the case to be matched. The SSA and USCIS criteria for determining whether a match is adequate are not the same. Biographic information considered adequate by SSA might not be considered adequate by USCIS, even though the matching criteria used by USCIS are generally more tolerant of differences in biographic information than the SSA matching criteria.

**The lack of a common identifier, such as the SSN, between SSA and DHS means that information about foreign-born citizens contained in USCIS naturalization databases may not be locatable when SSA information is inadequate to confirm citizenship status.** Many naturalization records, especially older records, do not contain SSNs, and A-numbers or Form I-94 numbers are not collected on the Form I-9 for citizens. Therefore, information on many foreign-born citizens naturalizing prior to the mid-1990s cannot be located on USCIS databases.[46]

**USCIS is correctly identifying substantial numbers of cases of unauthorized workers who would have been found employment authorized prior to the 2005 procedural change that resulted in all noncitizen cases being sent to USCIS.** In FY 2009, there were 383,000 noncitizen cases that went to USCIS with SSA data indicating that they were in employment-authorized status (outcomes shown as percentage of totals in Exhibit III-5). USCIS found most of these cases (337,000) to be employment authorized automatically. Another 25,000 cases were found to be employment authorized at second-level review, and 2,000 were found employment authorized after a TNC. Among the 19,000 cases receiving

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[46] See Chapter IV for a discussion of the major challenges facing the verification of foreign-born citizens.

FNCs or not work-authorized findings were an estimated 18,000 cases belonging to unauthorized workers and 1,000 estimated to belong to employment-authorized workers. The FNC accuracy rate for these cases was 94 percent, approximately the same as for all cases but slightly higher than for all USCIS cases (93 percent).

**Exhibit III-5. USCIS Outcomes for Noncitizens With SSA Records Showing Them to Have Permanent Employment Authorization: FY 2009**
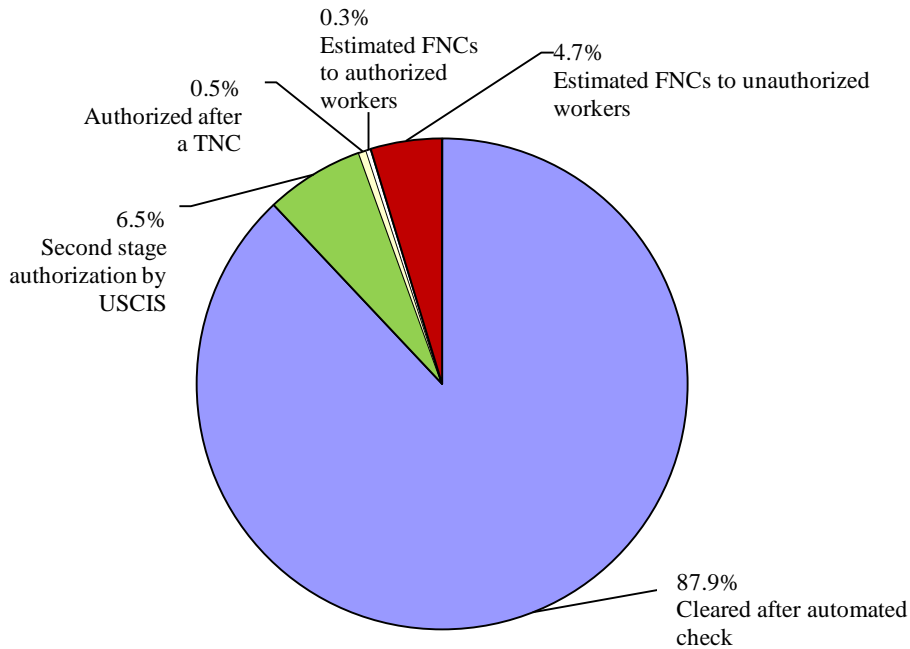


NOTE: Sum does not add to 100 percent because of rounding.
SOURCE: E-Verify Transaction Database: FY 2009.

**3.2.6.3. Possible Improvements**

**Additional coordination between SSA and USCIS, possibly including development of an integrated database, would allow opportunities to increase the accuracy and fairness of E-Verify findings.** Examples of situations in which increased coordination between SSA and USCIS would likely be beneficial are:

- Information from both Numident and DHS databases on aliases and other names used could be available for use in name matching.[47] To accomplish this without creating an integrated SSA-DHS database, SSA could provide electronic information to USCIS when noncitizens change their name with SSA, and USCIS could provide SSA with electronic information on legal name changes made at the time of naturalization. This exchange would efficiently improve both agencies' databases and reduce erroneous TNCs. This exchange of information may require new legal authority.

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[47] This may require legislative or administrative changes beyond those that SSA or USCIS are authorized to make. Listing possible changes does not necessarily indicate that the changes needed should be made by these agencies.

- If USCIS provided SSA with data on newly naturalized citizens, along with their SSNs, SSA could update Numident citizenship status.

- Making SSA and USCIS matching algorithms for biographic information more consistent would presumably decrease the difference between the overall accuracy rates for citizens and noncitizens by decreasing the need for noncitizens to meet two separate sets of matching biographic criteria.

- If USCIS and SSA consistently entered information on identifying numbers used by the other agency into their databases, it would make it easier to locate information about workers for cases that check (or could check) information available from both agencies. USCIS could data-enter SSNs for all noncitizens that have been assigned SSNs. SSA could collect A-numbers from noncitizens during the initial enumeration process and routinely send USCIS noncitizen SSNs[48] along with their A-numbers or Form I-94 numbers so USCIS could match and add these SSNs into CIS and TECS.

## 3.3. USCIS Second-Level Review

### 3.3.1. Introduction

As discussed in Chapter I, Section 2.1, USCIS cases may go through a three-level process in which both an automated check and an additional second-level review by MPAs are conducted prior to issuing TNCs. The USCIS FNC accuracy rate is, of course, dependent on the accuracy of the second-level review as well as the automated and TNC reviews.

### 3.3.2. Findings

**With the second-level review, the FNC accuracy rates for USCIS are substantially higher.** The FNC accuracy rate for all USCIS cases would have been approximately 58 percent without the second-level review rather than 90 percent with the second-level review (Exhibit III-6).[49]

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[48] A process similar to this was used for noncitizens legalized in the late 1980s under provisions of the Immigration Reform and Control Act (IRCA).

[49] A second-level review is conducted prior to a TNC being issued.

**Exhibit III-6. Accuracy of USCIS Automated Reviews With and Without a Second-Level Review, by Stages in the Automated Checking Process: FY 2009**
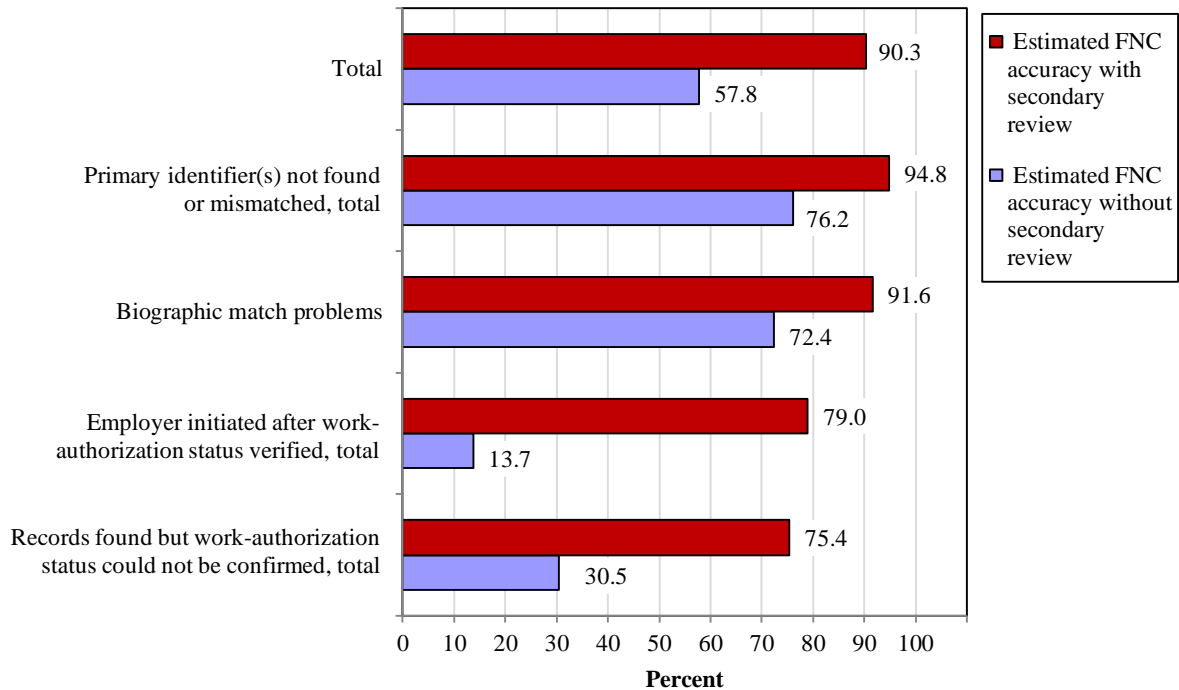


SOURCE: E-Verify Transaction Database: FY 2009.

**MPAs are given little discretion in finding cases work authorized.** The procedures to be followed by MPAs in deciding the work-authorization status of cases are spelled out in considerable detail in their standard operating procedures (SOP). If MPAs believe that cases can be verified by using "common sense" measures beyond those in the SOP, they must now refer the case to their supervisors.

**MPAs are subject to more stringent requirements when matching information in the second-level review than is true in the automated review.** The SOP specifies more stringent matching criteria in the second-level review than are used in the automated matching routine. This can lead to inefficient searches of multiple databases to find a match that unnecessarily meets these stringent standards and also results in additional TNCs being given to employment-authorized workers.

**MPA use of the Person Centric Query Service (PCQS) in their searches has streamlined searches but is not a panacea for resolving cases.** PCQS enables MPAs to search up to 12 government databases based on a single system log-in and input of information to provide a more person-centric view of noncitizens' interactions with Federal immigration agencies. As well as USCIS systems, PCQS includes access to relevant Department of State, ICE, CBP, and Executive Office for Immigration Review (EOIR) databases. However, MPAs reported that only databases for permanent residents and naturalized citizens could be searched in PCQS; some nonimmigrant database functionality has since been made operational. They also reported that PCQS is slow, so they sometimes find it more efficient to check databases separately while waiting for the PCQS response or in place of using PCQS at all. This was the situation even though MPAs need to sign separately into each agency system they check, often with different user names and passwords, and re-input case information each time(although MPAs often cut and paste case information to increase efficiency of checking). They also reported that after checking PCQS they

sometimes still need to search databases separately to find information, and sometimes PCQS information is not consistent with other databases.

### 3.3.3. Possible Improvements

**The name-matching criteria used in the MPA second-level review should be similar to that used in the automated process.** It is not clear why name-matching criteria in the second-level review should be so much more stringent than the automated criteria. The reason for this practice may be a desire to keep the criteria simple to follow and uniform among MPAs. However, it is not clear that these goals could not be met by more lenient matching criteria for MPAs. In modifying the rules, it would make sense for USCIS to also consider whether particular rules are too lenient in the automated match as well as whether they are too strict in the SOP.

**MPAs report that they do not normally use information from the automated match in their second-level reviews.** Currently MPAs do not use information from the automated search and are, in effect, starting the verification anew. It would be more efficient for MPAs to use the results of the automated finding to narrow down the information they are seeking. For example, if there were a name match but employment-authorization status could not be confirmed, the MPA should not have to verify a name match. Also, currently E-Verify does not have information on the types of documents workers provide other than that they are List A or List B, C Documents. Information on the specific documents noncitizens used in E-Verify would be helpful to MPAs, since they would point to which databases it would be most logical to check. This would require screen changes to the E-Verify drop-down menu to provide a list of specific documents used in the I-9 process.

**Making PCQS work faster and adding nonimmigrant databases would increase MPA satisfaction with it and make it a more useful tool.** MPAs told the evaluation team that conducting manual searches of individual systems was faster than using PCQS. Presumably PCQS was designed to save work by eliminating the need for MPAs to sign in and enter data into several systems to search cases, which often time out while open. Improving the speed of PCQS access for MPAs, which has so much potential for increasing efficiency, and adding databases for nonimmigrants could greatly enhance the second- and third-level case reviews. USCIS has reported that some nonimmigrant data have recently been made available through PCQS.

**USCIS should consider providing experienced MPAs with more autonomy in deciding cases in order to improve the efficiency of the second-level review process.** If MPAs believe that cases can be verified by using "common sense" measures beyond those in the SOP, they must now refer the case to their supervisors. Once MPAs have been trained and demonstrated proficiency and understanding of records and employment-authorization policies, allowing them discretion in certain circumstances would presumably increase their efficiency and avoid some erroneous TNCs in second-level reviews.

### 3.4. TNC Resolution Process

### 3.4.1. Introduction

Accuracy during the TNC contesting process is dependent on both employers and Federal staff following E-Verify procedural requirements for TNCs. This section first looks at findings related to employer actions and then those of Federal staff.

### 3.4.2.    The Employer

### 3.4.2.1. Introduction

The first steps in the TNC resolution process are the responsibility of the employer. The employer is supposed to:

- Inform the worker of the TNC and provide the worker with the TNC notice;

- Determine whether the worker notices any errors in the information submitted to E-Verify and, if so, enter into E-Verify that the original case submission was submitted in error and resubmit the case with the correct information;

- Ask whether the worker wants to contest if the worker indicates the E-Verify information is correct; and

- Refer the worker to SSA or USCIS, providing the worker with the proper referral letter if the worker wants to contest the TNC.

As discussed in the December 2009 and earlier evaluation reports, employers do not consistently follow these procedures because they do not understand what they are supposed to do, are unable to perform functions for practical reasons (e.g., employers that use E-Verify prior to the start of work may have trouble locating workers who receive TNCs), or are unwilling to follow the procedures (e.g., they may delay training workers or their start of work until the TNC is resolved, which is contrary to E-Verify procedures). Not following TNC procedures may result in an erroneous TNC becoming an erroneous FNC.

### 3.4.2.2. Findings

**Employer failure to follow rules contributes significantly to the number of employment-authorized workers who receive FNCs.** If the employer does not inform workers of the receipt of TNCs, obviously the worker cannot contest the TNC and the E-Verify system eventually considers the worker's case to be an FNC. Similarly, if employers do not follow the remaining TNC procedures correctly after notifying workers, the workers may not know how to contest cases and again the cases may become FNC cases. A failure to enter information into the system about a referral to SSA may result in an FNC even if a worker goes to SSA, since cases without referral codes are not processed in the automated pre-FNC check[50] that clears many other TNCs. If all employment-authorized workers were informed of their TNCs and how to contest them, the evaluation team estimates that the FNC accuracy rate in FY 2009 would have been 99 percent instead of 94 percent.

**SSA Service Representatives report that most of the time workers bring the documents that the E-Verify referral letter tells them to bring based on the type of mismatch in order to correct the mismatch problems.** It appears that the referral letters are clear to at least some of the workers wishing to resolve TNCs. However, Service Representatives reported that they do not know about problems among any employment-authorized workers who do not identify themselves as having received an E-Verify TNC or about employment-authorized workers who failed to contest because they did not understand what they

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[50]This report uses the term "pre-FNC" check to refer to the automated check of cases that are referred by employers (according to the E-Verify Transaction Database) after the 10-day period for resolving TNCs has expired. If a case is found employment authorized on the pre-FNC check, the case does not receive an FNC. Informally, these are referred to as "11th hour checks."

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were supposed to do. They also do not know to what extent employers or others have needed to explain the letter to the worker.

**USCIS and SSA have made significant efforts to update their worker letters and other materials to make them easier for workers to understand.** SSA and USCIS have reviewed materials prepared for workers and have put significant efforts into making them more understandable for workers who may not be fluent in English. Some documents, such as the TNC and referral letters, have also been translated into Spanish and additional foreign languages. This should assist workers in understanding what they need to do if they wish to contest when their employers do not give them clear guidance.

### 3.4.2.3. Possible Improvements

**Since one major reason for employer noncompliance is that they do not fully understand their responsibilities, USCIS may want to consider further expanding its outreach and training of employers.** USCIS is aware of the need to educate employers about their E-Verify responsibilities and has been expanding its efforts in these areas by revising the employer manuals, holding webinars, and making other outreach efforts. Of particular note in this regard is the work of the monitoring and compliance unit, which identifies possible employer noncompliance through analyzing transaction data and contacts employers via mail or telephone, providing the employer with information about their responsibilities. This effort has the advantage of targeting specific employers that need education.

**Expansion of USCIS monitoring and compliance efforts is a second option for increasing employer compliance.** As has been noted in prior evaluation reports,[51] without monitoring and following up as needed on improper E-Verify and other employment procedures, there is little incentive for employers to follow the proper procedures when they are contrary to what employers perceive to be their own best interests. As E-Verify has expanded, USCIS has increased its monitoring and compliance staff. However, as of February 2011, no employers had had their Memorandum of Understanding (MOU) terminated as a result of these efforts and no employers had been referred to either ICE or Office of Special Counsel (OSC) for action based on the efforts of this group.[52]

**Making workers more aware of their rights, including their right to obtain assistance from OSC, is another way of increasing employer compliance.** Workers who understand their rights are more able to ensure that employers are held accountable. There are currently three basic ways that the Federal government can communicate with workers: (1) clearly written materials for employers to use in providing workers with information about their rights; (2) general outreach efforts through labor unions, labor rights groups, and others; and (3) direct interactions with workers who wish to resolve TNCs.

**A different approach to increasing the frequency that workers are notified is to supplement current TNC notification procedures by having the Federal government directly notify the worker.** Given the importance of notifying workers of TNCs, USCIS may wish to consider directly notifying workers of the TNCs. If a decision were made to do this, one of the following approaches (or a combination of them) could be implemented:

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[51]For the most recent report, see Westat, *Findings of The E-Verify® Program Evaluation*, December 2009, (http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=3a351e56d3856210VgnVCM100000082ca60aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD).

[52]House Judiciary Subcommittee on Immigration Policy and Enforcement Hearing on the E-Verify Program http://judiciary.house.gov/hearings/printers/112th/112-4_64405.PDF.

- Employers could be required to input address information from the Form I-9 into E-Verify for all workers, and the Federal government could send notices to the worker's address via an automated mailing through E-Verify.

- Employers could be required to input address information from the Form I-9 into E-Verify for workers when TNCs are issued, and the Federal government could send notices to the worker's address. This option would presumably be less burdensome to employers than inputting addresses for all workers but might require employers to retrieve Form I-9s after their initial data entry.[53]

- Notices could be sent to addresses on Federal databases. This option has the advantage that it would be less burdensome to employers than having them input addresses. However, SSA reports that data from SSA earnings files, the only database that the evaluation team is aware of that contains information on all workers, are neither complete nor current and cannot be disclosed under the Internal Revenue Code.

A drawback of a Federal notification process is that it may not be reliable or timely and might require lengthening of time for contesting TNCs to allow time for preparing and mailing. Another option would be email, but not all workers are likely to have email addresses or regular access to the Internet.

### 3.4.3.    The Federal Government

### 3.4.3.1. Introduction

The Federal government has overall responsibility for E-Verify, including issues related to employers and workers. This section focuses on those E-Verify responsibilities for which the Federal government is clearly responsible.

### 3.4.3.2. Findings

**SSA Service Representatives are not proactive in identifying E-Verify cases when workers do not inform them that they have TNCs, resulting in some inaccurate FNCs being issued.** According to the Service Representatives interviewed, they rely on workers to inform them that they have an SSA TNC. When an SSN is entered into the system used by the Service Representative, the Service Representative is not informed that the case is an E-Verify case. Thus, information for workers who do not inform the SSA field office that they are resolving E-Verify TNC cases may not have accurate findings. SSA, however, added new alerts in its Visitor Intake Process and Enumeration system for the Service Representatives in April 2011 that cross-check with the E-Verify TNC database.

**SSA Service Representatives frequently do not enter information about TNCs into EV-STAR.** SSA Service Representatives often fail to enter information into EV-STAR about E-Verify TNC cases that they resolve. Of the 7,700 SSA successfully contested TNC cases, 4,628 (60 percent) were resolved during the final automated pre-FNC check done for cases that employers reported having referred to SSA but that did not have EV-STAR records (Exhibit III-7). Part of the reason for cases not being in EV-STAR may be a failure to follow SSA procedures when a worker provides a referral letter. The OSC reported having heard of several cases of workers being sent back to employers with printouts verifying that the worker resolved the TNC with SSA, but where the SSA employee did not record the results in EV-STAR. However, it is likely that workers often do not present the letter, perhaps because they do not

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[53]Of course, employers could be given the option of whichever of the first two options they preferred.

understand the need to do so, they forget or lose the letter, or their employers have not provided them with the letter.

**Exhibit III-7. SSA Resolved TNC Cases, by Whether Case Was on EV-STAR: FY 2009**



39.8%
(3,063)
Case resolution
in EV-STAR

60.2%
(4,628)
Resolved by
pre-FNC
check
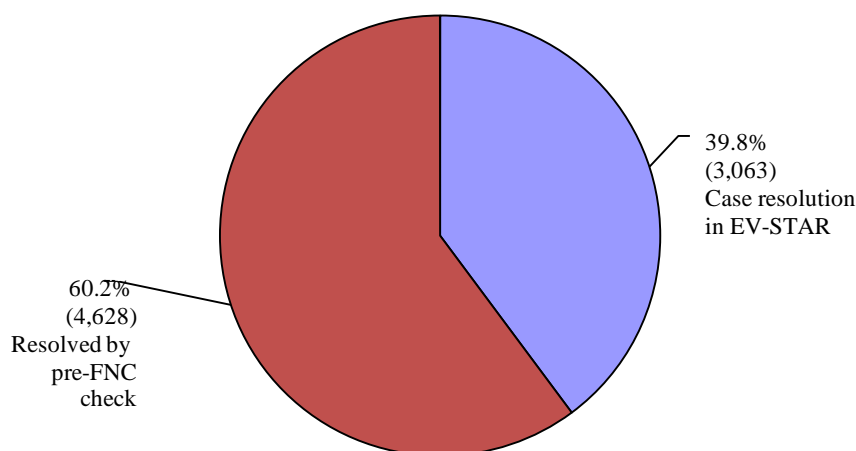
SOURCE: E-Verify Transaction Database: FY 2009.

**SSA Service Representatives receive only limited training in E-Verify procedures.** SSA Service Representatives usually go away for 10 weeks of face-to-face training in a local office with a training facility. Some Service Representatives, however, may do 15 weeks of half-day interactive video training (IVT) instead of the face-to-face training. Service Representatives get on-demand, online training on EV-STAR when they return from the basic training or, depending upon the office, may get in-person training on E-Verify. There is also some as-needed refresher training for Service Representatives on how to handle E-Verify cases.

**Many MPAs found their training to be inadequate.** The USCIS verification training office has put together a two-week training package for MPAs, but when the Los Angeles MPAs tested it, they thought it was more confusing than helpful. This same package was used for training new MPAs in Buffalo and included immigration law, E-Verify, and Systematic Alien Verification for Entitlements (SAVE) training. Since MPAs are not officers, they do not currently go to the USCIS Training Academy, but everyone who expressed an opinion about the training believed that sending MPAs to the Academy was the best option.

**MPAs reported that they were told not to ask workers for faxes of non-DHS documents, such as marriage certificates, to help resolve cases.** Currently, MPAs may only request copies of DHS documents. While this is generally sufficient to resolve cases, allowing them to request and review limited other documents (e.g., marriage licenses) to help clear workers would provide better customer service.

**The MPAs that resolve USCIS TNCs are not instructed to provide workers with the information they need to avoid future TNCs.** Some MPAs advise the worker calling in after a TNC to go to USCIS or CBP, if appropriate, to correct problems that are on DHS databases, such as name changes, in order to avoid future problems. Others advise the worker to use the name and date of birth on their immigration

document as their official information for the Form I-9 and then input their new name as "other names used." Frequently, however, MPAs do not tell workers what they must do to avoid future TNCs.

No one in the direct MPA chain of command has the authority to make changes to biographic or other data in databases. MPAs have the option of adding in the comment field of their case completion screen notes about typographical or other errors and corrections needed. However, it is not clear to the evaluation team that these comments are routinely reviewed and corrections made, or if they are made, how quickly it is done.

### 3.4.3.3. Possible Improvements[54]

- **Including all SSA TNC cases in the pre-FNC check at the end of the tenth workday, except those already resolved or in the process of being resolved, would presumably compensate for some inaccuracies that occur during TNC resolution.** Because employers do not always input a referral date, which normally starts the SSA TNC process, and SSA Service Representatives do not always update EV-STAR after resolving E-Verify cases, some cases resolved by SSA may not appear in EV-STAR at the time the pre-FNC check is run. Including all SSA TNC cases other than those recorded as resolved or in process by Service Representatives would ensure that fewer cases fall through the cracks.

- **SSA could review its training procedures on E-Verify since Service Representatives were not always satisfied with their E-Verify training**. SSA could obtain feedback on the adequacy of training and additional training needs from Service Representatives and use it to modify E-Verify training as appropriate.

- **MPAs may also benefit from more training and, concomitantly, more authority in completing cases.** As the E-Verify Program expands and the number of second- and third-level reviews grows, it will be increasingly important that MPAs be a well-trained and efficient workforce. USCIS has already taken steps to improve the MPA position by creating two dedicated offices for handling E-Verify cases and improving training and resources. However, the following actions would further improve MPA efficiency and help them prepare for future challenges as verifications become more complex:

  — **Review training and consider developing a more in-depth training program** to ensure that MPAs have the body of knowledge they need to more efficiently resolve cases. While formal training for MPAs has been expanded, much of MPA expertise is gained through less systematic and standardized on-the-job training. Getting direct feedback from MPAs about additional training needs would be helpful in making improvements.

  — **Give well-trained and experienced MPAs more autonomy in verifying cases.** Even experienced MPAs are currently given little discretion in finding cases employment authorized when the evidence for a particular decision is clear but does not meet the stringent guidelines in the SOP. Moving forward with these cases currently requires discussion with supervisors, which delays decision-making on workers' second- and third-level review cases and is a less efficient use of staff. Ideally, MPAs would be given the tools to do their job without consultation on all but the most unique and complex cases, subject to ongoing quality review and any needed remedial training.

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[54] Many of the improvements discussed under the USCIS second-level review are likely to impact the accuracy of the TNC review also.

- **MPAs should be allowed to ask workers for faxes of non-DHS documents, such as marriage certificates, to help resolve cases.** Similarly, they should be trained to consistently inform workers, either orally and/or by sending follow-up written materials, of what steps are needed to correct erroneous information in DHS databases.

- **At least one MPA supervisor at each site should be given authority and system access to modify DHS databases when an MPA has identified clear cases of typographical errors or simple changes in biographic data.** It would be more efficient for an onsite staff member to be able to make these changes, which would ensure the changes were made and potentially eliminate verification problems in the future. Obviously, there would need to be guidelines on the nature of permissible changes and the level of proof required.

### 3.5.    Improving Accuracy for Unauthorized Workers

### 3.5.1    Introduction

The major impact of inaccurately finding unauthorized workers to be employment authorized is that such findings dilute the effectiveness of the E-Verify Program in achieving its primary goal of reducing unauthorized employment. As noted in the chapter introduction, the available data have precluded doing analyses to determine the employment-authorized accuracy rate (i.e., the percentage of employment-authorized findings issued to employment-authorized workers), which would be analogous to the FNC accuracy rate. However, the above findings on the FNC accuracy rate do point to E-Verify being at least partially effective, since many unauthorized workers do receive FNCs. Nevertheless, the FY 2009 evaluation report indicated that approximately half of the cases submitted to E-Verify for unauthorized workers were incorrectly found to be employment authorized. Thus, it is reasonable to conclude that E-Verify is effective in identifying some but not all unauthorized workers, which is consistent with its goal of reducing unauthorized employment.

Identity fraud is the major cause of employment-authorized findings being given to unauthorized workers.[55] Since the start of electronic employment verification programs, the inability of such programs to detect identity fraud has been acknowledged. USCIS has been aware of this issue and has made efforts to increase the ability of E-Verify to detect fraudulent documents by adding a Photo Matching capability to the Program. Initially, only USCIS documents with photographs were used for this purpose. Recently, U.S. passport photographs were added to the types of documents accessible through E-Verify. USCIS has for some time also been trying to add driver's licenses to documents available for Photo Matching and is currently negotiating with a state to use driver's licenses on a pilot basis; this process is expected to begin in 2011.

### 3.5.2.    Findings

**Some MPAs report they have encountered employers that submit cases to E-Verify that they believe are fraudulent in order to let E-Verify be responsible for the worker's job termination.** MPAs reported being aware of cases of employers' finding it more comfortable to use the E-Verify case resolution process than to inform workers with documents they believe to be fraudulent that they must provide different documents if they wish to work. This means that workers using counterfeit documents who would have been terminated if employers had followed Form I-9 procedures may be permitted to

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[55] *Findings of the E-Verify Program Evaluation,* December 2009
(http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=3a351e56d3856210VgnVCM100000082ca
60aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD).

work, at least during the E-Verify case resolution process, despite employers' beliefs that they are using fraudulent documents.

**It is likely that many employers do not compare names returned by E-Verify with the Form I-9 information, as specified in the E-Verify employer manual.** As will be discussed in Chapter IV, only 7 percent of all names that were classified by the evaluation team as different between the employer's submission and the E-Verify response were referred by employers for second-level review.

**Prior evaluation reports indicate that not all employers correctly implement the Photo Matching process.** Correct procedures require that employers compare the photograph on the document proffered by the worker to the photograph returned by E-Verify to verify that the photograph is an exact match. However, some employers compare the photo returned by E-Verify to the worker. The photograph returned by E-Verify should be compared to the photograph on the document to detect cases in which a document was altered by inserting a photograph of the worker or to detect a counterfeit document with a totally different photograph than that returned by E-Verify.

**Prior evaluation reports also indicate that employers do not comply with all the E-Verify requirements designed to reduce unauthorized employment.** Examples of employer noncompliance that may affect the effectiveness of E-Verify include not using E-Verify consistently, especially when they think a worker they wish to continue to employ is believed to be unauthorized; not terminating employment of workers with FNC findings promptly or at all without entering this fact into E-Verify; and encouraging workers to use documents that will not trigger the Photo Matching process.[56]

### 3.5.3. Possible Improvements

**One potential way to reduce identity fraud in electronic employment verification that is frequently mentioned by stakeholders is to incorporate use of biometric information, such as fingerprints or retinal scans, in the E-Verify process.** Biometric information could be obtained by employers and then either be compared with biometric information embedded in an SSN or other identity card or transmitted to the government for comparison against Federal databases. However, some stakeholders have expressed concern that such a biometric system is a violation of worker rights. It would also increase the burden on employers to have the equipment and to take the time to capture and transmit the biometrics. Moreover, it would be a very costly undertaking on the part of the Federal government to issue biometric SSN cards to all U.S. workers. Additionally, SSA does not believe that issuing biometric SSN cards is necessary for the administration of Social Security programs.[57]

**USCIS may want to provide employers with additional information on how to handle cases in which workers present documents that the employer believes are fraudulent.** Since E-Verify employers are still required to follow the Form I-9 procedures for document review, they should be reminded to question any documents that appear to be counterfeit, altered, or not to belong to the bearer. Educating employers about the ongoing need for this step would presumably increase the number of unauthorized workers identified.

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[56] *Findings of the E-Verify Program Evaluation,* December 2009 (http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=3a351e56d3856210VgnVCM100000082ca60aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD).

[57] United States Government Accountability Office Federal Agencies Have Improved E-Verify, but Significant Challenges Remain Statement of Richard M. Stana, Director Homeland Security and Justice before the Subcommittee on Immigration Policy and Enforcement, Committee on the Judiciary, House of Representatives (GAO-11-330T) (http://judiciary.house.gov/hearings/pdf/Stana02102011.pdf).

**The number of documents used to establish employment authorization in the Form I-9 and E-Verify processes could be reduced.** Although USCIS has made progress in reducing the number of acceptable verification documents and increasing the security of those that may be used, there are still 26 types of documents that can be used to verify identity and/or employment authorization. Further reducing the number of acceptable documents would allow for eliminating some easily counterfeited documents and make it easier to educate employers about recognizing counterfeit documents. The drawback is that it may be difficult for some employment-authorized workers to establish identity if the document list is restricted.

**USCIS might consider making it more difficult for workers to be verified as employment authorized when there is monitoring information pointing to their being highly likely to be unauthorized to work.** Stakeholders have often suggested that workers with SSNs that are frequently used, especially those used a very large number of times in a short period and/or in more than one area of the country, should not be automatically found employment authorized. The USCIS monitoring and compliance unit has been examining data that could be used to identify cases that are likely to be unauthorized. It might be reasonable to issue TNCs to cases like these on a pilot basis and then evaluate the accuracy and effectiveness of these TNCs using the same procedures as used in this report.

**USCIS could determine on a pilot basis the accuracy and effectiveness of issuing expedited TNCs to cases when there is information pointing to their being highly likely to be unauthorized.** Information from the USCIS monitoring and compliance unit could be used to identify characteristics of cases highly likely to be unauthorized; these workers could then be allowed a shorter time period in which to contest the TNC. This would likely require legislation to change the time period for resolving TNCs but would have the benefit of reducing the period of unauthorized employment at any E-Verify employer.

**Testing matching algorithms that are more stringent than some of those used currently may result in identifying additional unauthorized workers.** Although more stringent matching techniques could not be tested with the available data in this evaluation, USCIS and/or SSA could test more stringent matching techniques to determine whether they improve the accuracy and effectiveness of findings for unauthorized workers. Changes to E-Verify software are often made with a capability of easily "turning off" a particular feature of the change. Therefore, it would be possible to test alternate matching techniques on a short-term basis and then test them using the same methodology as used in this evaluation prior to deciding whether the modifications should be made permanent. A starting point for identifying places where modifications may be possible is examining whether it is possible to make matching algorithms less tolerant for those types of cases that have high FNC accuracy rates, such as SSN mismatch cases and SSA cases in which both date of birth and name mismatch.[58]

**A more stringent USCIS name match algorithm could replace employers' comparison of workers' Form I-9 names input and the names returned by E-Verify.** Employers reasonably assume that when they receive an employment-authorized finding that the names are properly matched, even though the manual specifies that they are supposed to do an additional name match. Requiring the employer to manually compare names is costly to employers, ineffective, and should be an integral part of the Federal verification process rather than an employer responsibility.

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[58]The evaluation team does not have adequate information about the current algorithms to make more specific suggestions on what changes might be worth testing.

# CHAPTER IV. FINAL NONCONFIRMATION ACCURACY RATES CHARACTERIZED BY THE REASONS WORKERS WERE NOT AUTOMATICALLY FOUND EMPLOYMENT AUTHORIZED

## 1.    INTRODUCTION

Chapter I of this report provided information on E-Verify procedures, and Chapter II discussed the methodology for the study. Chapter III presented the major findings of the evaluation and discussed some options to improve accuracy. The goal of the analyses in this chapter is to provide additional information to assist in setting priorities for possible changes to the E-Verify Program. It focuses on the accuracy of cases receiving Final Nonconfirmation (FNC) findings, characterized by the reason they did not receive an automated finding of employment authorized. The evaluation team makes recommendations for modifications to E-Verify in Chapter V, based on the results presented in Chapters III and IV.

The following are, broadly speaking, reasons that employment-authorized workers may not be automatically found employment authorized by E-Verify:[59]

- The worker's identifying number(s) such as Social Security number (SSN), A-number, or Form I-94 number are not valid or cannot be located on the Federal databases.

- The biographic information (name and date of birth) associated with the identifying number(s) does not match what the employer input.

- Information in Federal databases about the worker's employment-authorization status does not indicate that the worker is employment authorized.

- The employer may indicate that there are discrepancies between the Form I-9 name and the name returned by E-Verify based on Federal records or may indicate that the photograph returned by E-Verify does not match the photograph on the document proffered by the worker.

These broad reasons can be further subdivided into more detailed reasons, based on the information provided by E-Verify on why cases were not employment authorized automatically. In some cases, it is also possible to further subdivide the Social Security Administration (SSA) and/or U.S. Citizenship and Immigration Services (USCIS) reasons, based on additional information available in the Transaction Database. For example, for this analysis USCIS cases that passed the initial biographic check but were not found employment authorized were subdivided based on their immigration status codes (e.g., permanent residents, students, exchange visitors).

Even after the evaluation team combined similar detailed categories, approximately 20 categories remained. For ease of presentation, these detailed case categories have been grouped into three tiers:

- **Tier 1** cases constitute a relatively high percentage of FNCs issued to employment-authorized workers. Improving the accuracy of these case decisions is likely to have a relatively large impact on the overall FNC accuracy rate.

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[59] See Chapter I for additional information about the E-Verify process.

- **Tier 2** cases do not meet the Tier 1 criterion but have relatively low FNC accuracy rates. The relatively low contribution of the cases in this category to the overall FNC accuracy rate is attributable to their accounting for relatively few FNCs. Even though improvements designed to increase the accuracy of the Tier 2 cases will be unlikely to greatly improve the overall accuracy rate, changes related to these reasons may be cost-effective if their costs are not high.

- **Tier 3** cases do not meet either the Tier 1 or Tier 2 criteria. Although the evaluation has looked less closely at the Tier 3 cases than the other types of cases, basic information is presented about them since there may be interest in addressing some of these types of cases based on criteria that differ from those used in this report.

After discussing the detailed reasons for not finding cases employment authorized automatically, the report looks at differences between the erroneous Tentative Nonconfirmation (TNC) rates for citizens and noncitizens. This analysis provides some information on the differential impact that modifications to E-Verify may have on accurate verification of citizens and noncitizens.

## 2.    TIER 1 CASES

### 2.1.    What Types of Cases Account for the Largest Number of Cases in Which Employment-Authorized Workers Received FNCs?

**The most frequent reason that FNCs are issued to employment-authorized workers is that neither SSA nor USCIS was able to confirm the immigration or citizenship status of workers attesting to be U.S. citizens.** A finding in which a worker attested to be a U.S. citizen on the Form I-9 but whose citizenship status could not be confirmed by E-Verify accounted for an estimated 35 percent of all cases in which FNCs were issued to employment-authorized workers (Exhibit IV-1). This particular finding is not surprising since the December 2009 evaluation found that although the erroneous TNC rate of naturalized citizens decreased significantly after E-Verify started checking Department of Homeland Security (DHS) naturalization databases, substantial numbers of naturalized citizens continued to receive E-Verify TNCs.

FINAL NONCONFIRMATION ACCURACY RATES CHARACTERIZED BY THE REASONS
WORKERS WERE NOT AUTOMATICALLY FOUND EMPLOYMENT AUTHORIZED

IV

**Exhibit IV-1. Reasons for Initial TNCs Being Issued to Employment-Authorized Workers Who Later Received FNCs: FY 2009**
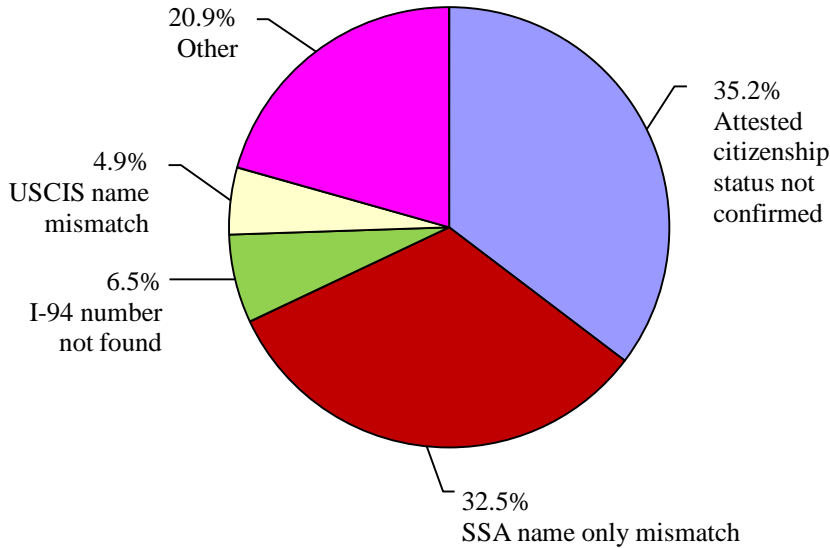


SOURCE: E-Verify Transaction Database: FY 2009.

**The second most frequent reason that an FNC is issued to an employment-authorized worker is an SSA name only mismatch.** An initial SSA finding that there was an SSA name mismatch was issued for an estimated 33 percent of all FNC cases for authorized workers.

**Other initial findings associated with relatively large numbers of FNCs issued to employment-authorized workers were Form I-94 numbers that could not be located and USCIS name mismatches.** Inability to locate workers' Form I-94 number in a DHS system accounted for 7 percent of all initial reasons leading to employment-authorized workers receiving FNCs, and USCIS name mismatches accounted for another 5 percent.

**Most employment-authorized workers who received FNCs were Tier 1 cases.** Tier 1 cases accounted for 79 percent of all FNCs received by employment-authorized workers.

## 2.2. What Additional Information is Available to Help Decide How to Allocate Resources?

### 2.2.1. Introduction

Decisions about possible modifications to E-Verify procedures and matching algorithms cannot be based solely on the overall percentage of FNCs issued to employment-authorized workers associated with a particular reason for the mismatch. Other factors related to the Tier 1 reasons that need to be considered and the measures of those factors used in this report are:

- Accuracy, measured by the FNC accuracy rate; and

- The estimated percentage of unauthorized workers detected.[60]

The measures of interest in determining the best use of resources are highly but not perfectly correlated. For example, a reason associated with only a few FNC cases may have a low accuracy rate but only minimal impact on the overall accuracy rate. On the other hand, reasons associated with high numbers of FNCs may contribute heavily to both the percentage of all FNCs correctly issued to unauthorized workers and the percentage erroneously issued to employment-authorized workers.

### 2.2.2. Findings

**Most types of cases classified as Tier 1 based on their initial reason for not being employment authorized had low FNC accuracy rates (i.e., a relatively large number of workers in the category who received FNCs were employment authorized).** The FNC accuracy rates for Tier 1 cases ranged from 6 percent for cases in which the Form I-94 number could not be located to 95 percent for USCIS name mismatches. All but the USCIS name mismatches were below the overall FNC accuracy rate of 94 percent for all cases (Exhibit IV-2).

**Exhibit IV-2. FNC Accuracy Rates for Tier 1 Reasons: FY 2009**
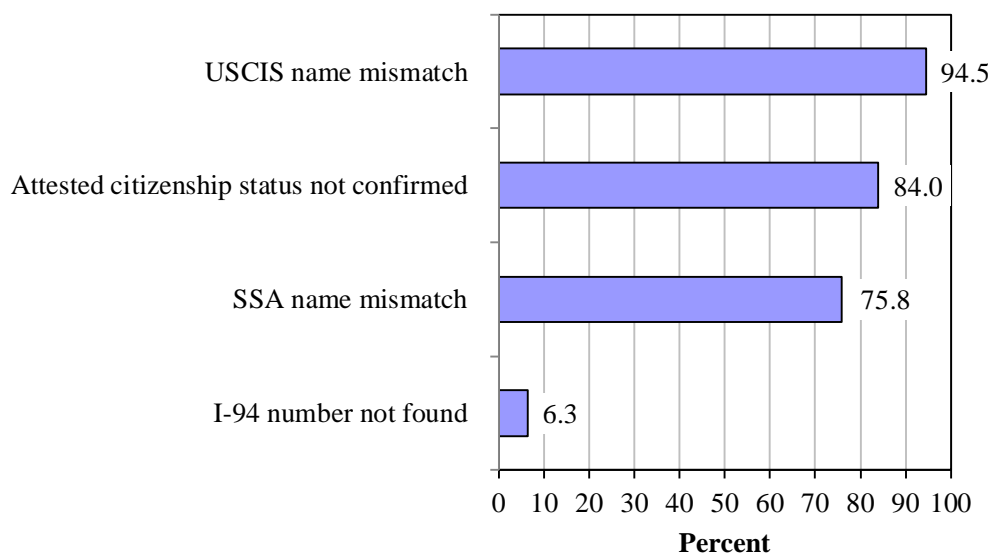


SOURCE: E-Verify Transaction Database: FY 2009

**The four Tier 1 reasons were responsible for identifying approximately one-quarter of unauthorized workers.** Workers claiming to be U.S. citizens but whose citizenship status could not be confirmed constituted approximately 12 percent of all FNCs issued to unauthorized workers. SSA name mismatches accounted for another 7 percent and USCIS name mismatches for 6 percent (Exhibit IV-3). The only Tier 1 reason identifying negligible numbers of unauthorized workers was Form I-94 number not located.

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[60]See Chapter II and Appendix C for additional information about these measures.

FINAL NONCONFIRMATION ACCURACY RATES CHARACTERIZED BY THE REASONS
WORKERS WERE NOT AUTOMATICALLY FOUND EMPLOYMENT AUTHORIZED

IV

**Exhibit IV-3. Estimated Percent of Unauthorized Workers Identified for Tier 1 Cases,
by Initial Reason for Not Receiving an Automated Finding of Employment Authorized: FY 2009**



12.4%
Attested citizenship status
not confirmed

6.8%
SSA name only

5.7%
USCIS name
mismatch

0.0%
I-94 number not
found

75.1%
Other
reasons
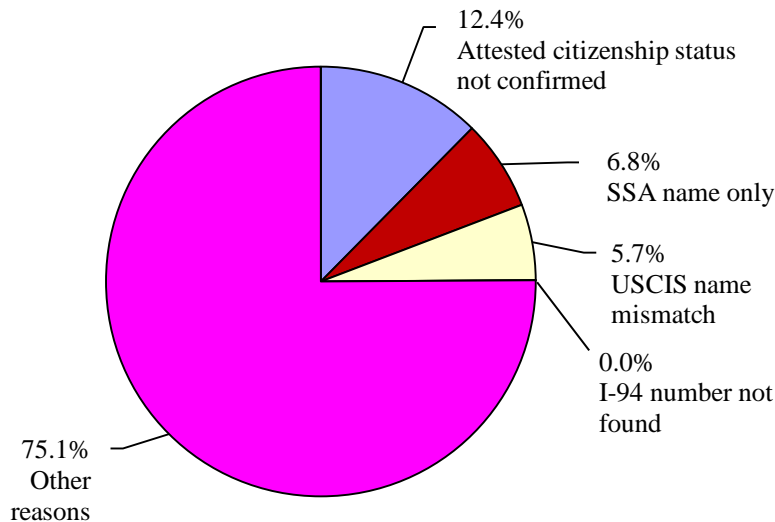
SOURCE: E-Verify Transaction Database: FY 2009.

## 2.3.    Confirming Employment-Authorization Status of Naturalized Citizens

### 2.3.1.    Findings

**Retaining accurate information on noncitizens who have become U.S. citizens remains a major
challenge to E-Verify, affecting not only accuracy but also the perception of bias against foreign-
born citizens.** The SSA and DHS database information for foreign-born citizens that is checked by E-
Verify is inadequate for verifying the citizenship status of many foreign-born U.S. citizens.

**The SSA Numerical Index File database (Numident) does not always have accurate information on
the current citizenship status of foreign-born citizens.** SSA has maintained information in Numident
on citizenship status of all persons issued SSNs since 1981. However, workers who obtain an immigration
status indicating that they have permanent work authorization or who obtain citizenship status typically
do not realize they should report these changes to SSA. SSA has been reluctant to encourage reporting
these changes until these persons apply for Social Security benefits, because of the impact on its local
field offices where changes to status must be made in person and verified separately through the USCIS
Systematic Alien Verification for Entitlements Program (SAVE). However, approximately four years ago
SSA approved wording in the *USCIS Guide to Naturalization* to encourage new U.S. citizens to report
their new citizenship status to SSA.

**The USCIS data currently checked when SSA cannot confirm the U.S. citizenship status of workers
attesting to be citizens on the Form I-9 also has serious limitations.** Since SSA does not always have
current citizenship status for persons who have become U.S. citizens, USCIS now checks USCIS
databases that provide information about naturalized citizens. However, most naturalization data before
the mid-1990s are still not reflected in USCIS systems. Also missing from DHS databases is information

for citizens with derived U.S. citizenship status—primarily noncitizen children under age 18 who derive citizenship when one or both parents naturalize. USCIS manually processes requests for Certificates of Citizenship in local offices, and status updates are not routinely entered into the Central Index System (CIS). The majority of persons who derive citizenship do not apply for Certificates of Citizenship and are never reflected as U.S. citizens in either USCIS databases or in their paper A-file record.

**The recent addition of passport data to the E-Verify check will help foreign-born U.S. citizens with derived citizenship status if they present a U.S. passport[61] during the Form I-9 process.** Foreign-born citizens with derived citizenship status are likely to benefit from the U.S. passport data check started in February 2009, if they use a U.S. passport to establish their identity in the Form I-9 process. Acquiring a U.S. passport is both quicker and significantly less expensive[62] than applying for a USCIS Certificate of Citizenship and it provides the key document required for international travel. Therefore, the addition of Department of State passport data through Customs and Border Protection (CBP) is likely to be helpful in reducing TNCs during the verification process. However, since E-Verify transaction data indicate that less than 10 percent of workers attesting to U.S. citizenship present a U.S. passport in the Form I-9 process, the effectiveness of this system in reducing erroneous TNCs for this population is limited.

### 2.3.2.   Possible Improvements

**One possible approach to verifying the employment-authorization status of workers claiming to be U.S. citizens when their citizenship status cannot be confirmed by current E-Verify automated procedures is to search additional DHS databases for records to determine whether workers had permanent resident status.** The SSA review of cases in which workers attest to being U.S. citizens on the Form I-9 considers workers with SSA records showing that they have permanent employment-authorization status (lawful permanent residents (LPRs), refugees, and asylees), to be employment authorized. However, only USCIS naturalization databases are currently checked for workers attesting to be citizens when their cases are sent to USCIS. Checking additional DHS databases to determine if the worker has permanent employment-authorization status would require modification of the E-Verify software and would not completely solve the problem, since noncitizens cannot always be located without an A-number or an I-94 number.

**A second possible approach to improving accuracy for foreign-born U.S. citizens is to obtain U.S. passport and/or former A-numbers for workers at the pre-TNC stage, assuming the worker wishes to provide them.** As discussed in Chapter III, Section 3.2.6, searches of USCIS immigration databases cannot always be successful if an A-number is not available for the worker. If this number were obtained for naturalized U.S. citizens at the pre-TNC stage, it is likely that more foreign-born citizens could be found employment authorized without receiving a TNC. This change has the possible disadvantage of telling employers that workers are foreign-born rather than native-born citizens, which civil rights groups might disapprove of; however, given the alternative of issuing TNCs to these workers, this may not be a major issue. Obtaining U.S. passport numbers from naturalized citizens who have them and who did not originally present a U.S. passport during the Form I-9 process would make it possible for the worker to be authorized using the passport check. If the process of checking passport or former A-number were to be implemented, provisions should be made for citizens who cannot remember their former A-number and do not have or do not know their passport number.

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[61] It is believed that a majority of derived citizens who do not request Certificates of Citizenship are documented as U.S. citizens by the Department of State when they request their first U.S. passport. (Similarly, it is likely that most U.S. citizens who derived that status and received Certificates of Citizenship also apply for U.S. passports at some point.)

[62] A first-time U.S. passport costs $105 for a child under age 16 and $135 for persons 16 and older and is processed in four to six weeks. USCIS charges $600 for a Certificate of Citizenship and takes from several months to a year to process them.

**A third approach to improving accuracy for foreign-born citizens would be for the Department of State to provide information to SSA electronically about derivative U.S. citizens receiving a first passport.** An electronic transmission of passport data for these citizens would be an efficient way to update the SSA records of these foreign-born citizens who provide U.S. passports in the verification process.[63]

**A fourth approach would be for U.S. passport officials and publications to encourage new U.S. citizens getting their first U.S. passport to take it to SSA to change their citizenship status in SSA records.** This step would parallel the step that SSA and USCIS took in revising USCIS guidance for naturalization applicants. It has the potential to substantially reduce erroneous TNCs issued to derivative U.S. citizens as well as to naturalized citizens.

### 2.4. SSA and USCIS Name Mismatches

### 2.4.1. Introduction

This section examines the accuracy of different types of name mismatches. Since *many* issues related to name mismatches are the same for SSA and USCIS, they are discussed together in this section. However, it is important to note that the different matching algorithms used by the two agencies can significantly affect the types of mismatches. For example, if one agency considers common nicknames (e.g., Bill) and formal names (e.g., William) to be matched and the other does not, the latter agency is likely to have more problems related to nicknames.

### 2.4.2. Findings

**SSA data on names tend to be highly accurate at the time of enumeration, but accuracy decreases over time.** SSA requires official proof of name during the original enumeration process and will use the name on the official document if there is doubt about spelling or use of legal name. However, over time some individuals change their name due to marriage, divorce, adoption, or court order and may not always report these changes to SSA. SSA encourages SSN holders to report changes of name to them to ensure proper reporting of wages to their earnings records and makes it easy to find out how to do so on its website. Additionally, approximately four years ago SSA added wording to the *USCIS Guide to Naturalization* to encourage citizens who change their name legally at the time of naturalization to visit an SSA field office to update their record.

**One reason for DHS name mismatches is that USCIS does not encourage noncitizens to correct official records by reporting name changes, and the fees for changing a name and issuing new secure documentation with the new name create strong disincentives.**[64] While there is no charge to change a name if there is an administrative error, name changes such as those due to marriage or Americanization require that the applicant pay USCIS the full application fee plus the required biometrics fee to obtain new corrected documentation. This results in a total cost of $460 when noncitizens with Employment Authorization Documents (EADs) change a name with USCIS, $450 for permanent residents, and $330 for nonimmigrants using the Form I-94 Arrival/Departure document as their proof of employment authorization.

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[63]Since the scope of this report did not include review of Department of State databases and procedures, the evaluation team cannot assess the feasibility of this alternative.

[64]With minor exceptions for non-income-producing programs, USCIS is a fee-based agency. When USCIS work is involved, a fee must be charged to pay for it, and name changes require verification that the requestor is the correct person, a review of supporting documentation and potentially the case A-file, and production and mailing of the new card.

**USCIS has a process in place for noncitizens to easily report any change of address to USCIS without paying a fee, which could be modified to also require reporting of name changes.** Noncitizens can submit address changes to USCIS online, by phone, or by sending a paper form to a centralized location for data entry without paying a fee. USCIS could explore appropriated funding or spreading the cost of reporting name changes across the basic fee structure to also require prompt reporting of name changes, along with appropriate documentation of the change.

**The Form I-9 does not currently require that the workers use their legal name in completing the form.** Neither the instructions on the Form I-9 nor the form itself specify that workers use their legal name on the form. USCIS reports that new instructions will be issued later in 2011 to advise workers to use their full legal name on the I-9.

**Very long names are truncated when they are entered into SSA and USCIS databases and printed on documentation, which can result in worker or employer confusion about the name and possible mismatches when the full name is entered on the Form I-9 and in E-Verify.** Limitations on the number of characters for names in data systems are carried over to document production. SSA allows 16 characters each for first and middle names and 21 characters for the last name and allows special characters, such as spaces, hyphens, and apostrophes, in names. On USCIS documents, names that exceed 18 letters each for first and middle names and 30 characters for last names are truncated on Permanent Resident Cards and EADs, and special characters that are part of a name are not allowed and will not appear on documents. CBP limits names on the Form I-94 to 19 spaces for last name and 13 spaces for first name, also potentially resulting in only part of a name being available in TECS and on the Form I-94, which is often used as a Form I-9 document for proving employment authorization.

**During interviews, SSA Service Representatives and USCIS Management Program Assistants (MPAs) identified a number of types of names that were likely to lead to TNCs or to a need for second-level review.**

- **Names that have been legally changed.** Names changed through marriage, divorce, during the naturalization process, or otherwise constitute a major reason for name mismatches. SSA Service Representatives reported that most name changes they see are due to marriage and changes of name during the naturalization process. Additional reasons for name changes are Americanization of names other than those done during the naturalization process, changing the name on file with SSA from a nickname to the given name at the request of an employer or the Department of Motor Vehicles (DMV) or for income tax purposes,[65] and adoptions. According to MPAs and SSA Service Representatives, individuals who change their names may not know where or how to change their names legally or that it is important to do so. They continue to use their old documents listing different names and explain the reason for the difference in names to their employer, which often works for the paper Form I-9 process. However, to clear automatically, E-Verify requires that the names on the Form I-9 match the names on official records. Workers do not always understand why the system finds they are not authorized to work because the name they used on the Form I-9 has worked for them previously with other employers.

- **Compound and hyphenated names.** Especially common in Hispanic names, these names may be abbreviated or otherwise be subject to different forms or order of entry in multiple databases. Interviewees reported that in the case of double first or last names, the employer should enter the name that is listed on the worker's documents, but employers do not always do this. Furthermore, the

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[65]For tax e-filing, the full name must be on file with SSA. About 15 years ago the California DMV wanted all drivers' license names to match SSA records.

FINAL NONCONFIRMATION ACCURACY RATES CHARACTERIZED BY THE REASONS
WORKERS WERE NOT AUTOMATICALLY FOUND EMPLOYMENT AUTHORIZED

IV

documents sometimes list different parts of the compound name or different combinations of the compound name. Compound name problems can arise because a worker uses both a birth name and a spouse's surname. However, interviewees indicated that foreign-born workers are more likely than U.S.-born workers to face problems because of compound names. Hispanics frequently have compound last names, and interviewees said that Filipinos and Koreans often combine names or put the second part of the name as a middle name, which can cause mismatches. MPAs also reported that some people use different names by truncating their name or dropping part of a compound name.

- **Names in which first and last name cannot be clearly differentiated.** This is especially likely to occur for workers from countries where the surname normally precedes the first name or where one or both are compound names and run together on the form making it hard to tell whether the name in the middle is part of the first or the last name.

- **Persons having only one name.** This is common in Middle Eastern cultures. Not only is entry of these names confusing for employers, but how the single names are recorded in government records varies.

- **Names that include suffixes.** The E-Verify instructions say not to enter suffixes (e.g., III in James Smith III); however, employers do not always follow this instruction.

- **Hard-to-spell names.** Interviewees reported that names that are difficult to spell (such as those with many consecutive consonants or that are very long) are more error prone than other names.

- **Typographical errors.** Letter or number reversals (e.g., "ie" versus "ei") and other typographical errors may be attributable to poor handwriting, worker recollection errors, or typographical mistakes made by either employer or Federal data entry staff. This is especially likely to occur for long names.

**The overwhelming majority of SSA name mismatch cases resolved after a TNC involved what appear to be changes of name in Numident.** Although it is not feasible to calculate accuracy rates for characteristics of SSA name mismatch cases with available SSA data, it is possible to calculate the frequency distribution of name mismatch characteristics for successfully contested TNC cases.[66] Exhibit IV-4 classifies SSA name mismatch cases resolved after a TNC based on comparisons of the original name submitted to E-Verify with the name that led to case resolution. By far the most common reason for name mismatches was that there had been a change in name or an error in the original enumeration, making it necessary to modify Numident (94 percent). None of the remaining reasons for mismatches examined accounted for more than 2 percent of all SSA name mismatches. In these cases, the Service Representative was able to verify that the person matched the record and a change was not needed in Numident.

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[66]As explained in Chapter II, SSA cases with FNCs do not have information needed to classify FNCs by comparing employer and Federal database information. The evaluation team cannot, therefore, classify name mismatch FNCs by characteristics of the name mismatch as can be done for USCIS FNCs.

**Exhibit IV-4. Characteristics of SSA Name Mismatch Cases Resolved After a TNC: FY 2009**
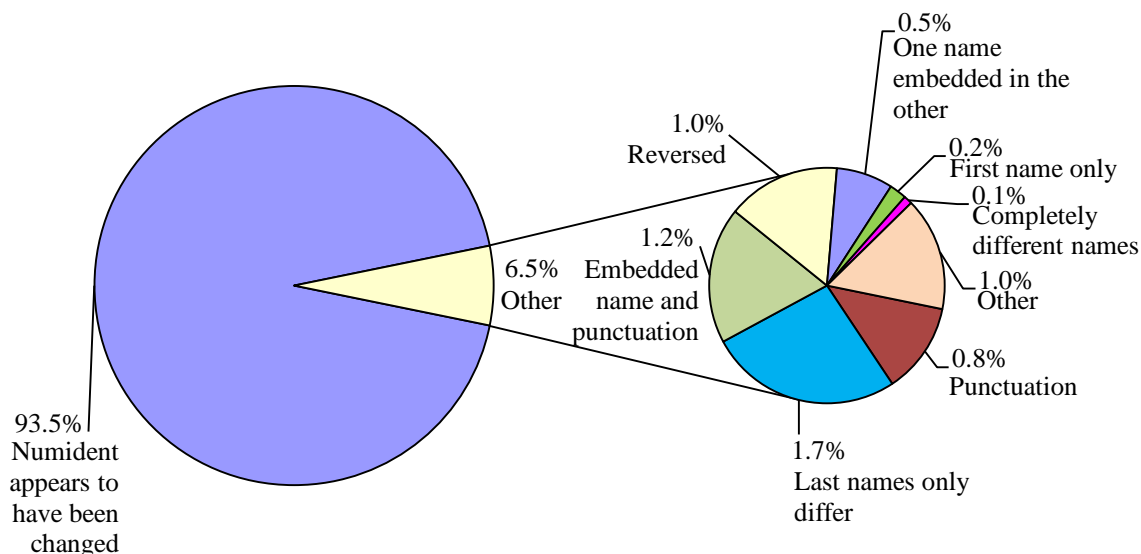


NOTE: Data are based on comparison of the Form I-9 case name that received an SSA TNC and the name that led to the case resolution. Cases are classified as "Numident appears to have been changed" when the two names are the same, since a change in the Numident record to the Form I-9 name is the most plausible reason for resolved TNC cases having the same original and final names. The distributions of name mismatches are not comparable for SSA and USCIS because of differences in the available SSA and USCIS data.
SOURCE: E-Verify Transaction Database: FY 2009.

**The majority of USCIS-resolved name mismatch cases were cases in which the originally submitted name and the name on the DHS database differed on both the first and last name.** The information available for USCIS and SSA cases are different and therefore does not permit calculating comparable distributions of characteristics. For USCIS cases, there is no record of the final case name for cases resolved at either the second- or third-level review; that record exists for SSA cases. However, for most cases, the USCIS record includes the name in the DHS database, permitting comparison of the DHS and Form I-9 names for resolved cases. Among successfully resolved USCIS name mismatch cases, 51 percent of the cases had completely different first and last names, 11 percent differed only on first name, and 10 percent were cases where one of the first names was a common nickname for the other name used[67] (Exhibit IV-5).

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[67]The distribution of name mismatches is dependent upon the algorithms used by SSA and USCIS, since the only name mismatches examined were ones that received a TNC.

**Exhibit IV-5. Characteristics of USCIS Name Mismatch Cases Resolved After a TNC: FY 2009**
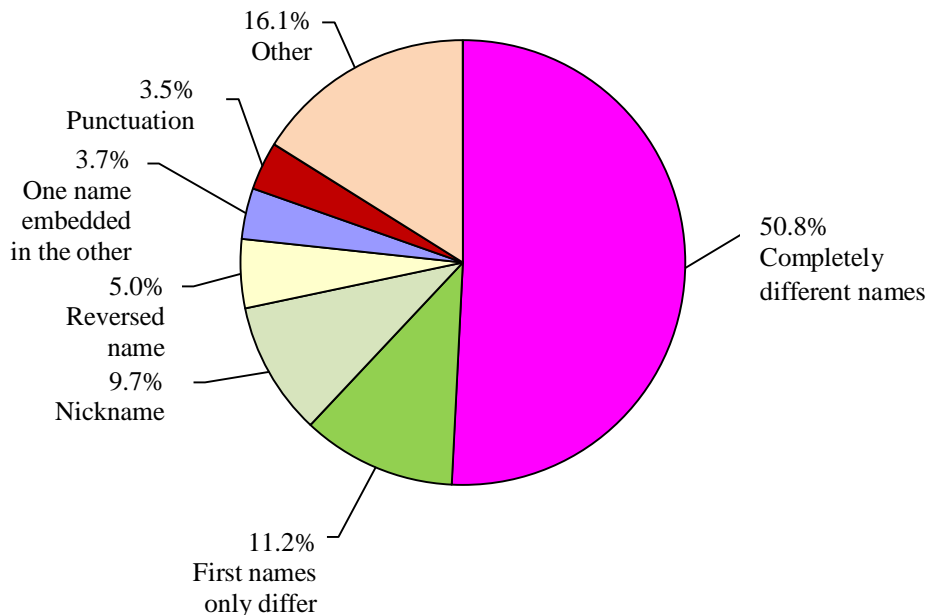


NOTE: Data are based on comparison of the case name submitted to E-Verify by the employer with the name on the DHS database at the time the TNC was issued. The distributions of name mismatches are not comparable for SSA and USCIS, because of differences in the available SSA and USCIS data.
SOURCE: E-Verify Transaction Database: FY 2009.

**MPAs cannot modify DHS databases when they have obtained proof of a name change or found typographical errors in a database.** Although MPAs have the option of referring cases to other USCIS staff to make record changes, they are not authorized to make such changes to DHS databases themselves.

### 2.4.3. Possible Improvements

**One approach to improving SSA name only mismatches is to modify the SSA matching algorithm to increase the probability of a name match.** As noted above, interviews with SSA Service Representatives indicated that name mismatches were, in large part, attributable to name changes that had not been reported to SSA. This observation is consistent with the evaluation findings and suggests that a modification of the algorithm used in name mismatches would be helpful. For example, name mismatches resulting in FNCs for workers whose names changed because of marriage or divorce would presumably be reduced if a case could be matched by the first name on the Form I-9 to the first name on the Numident database in addition to the date of birth matching.[68] This modification would have the additional advantage of making the SSA name-matching algorithm more similar to the USCIS algorithm, as recommended in the December 2009 evaluation report. However, the available transaction data do not permit examination of the likely effect of such a change on the number of unauthorized workers detected.

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[68] See Section 2.4.2 for a discussion of name mismatches due to name changes at naturalization, which would not necessarily be addressed by this algorithm change.

**Another possible way to increase the accuracy of name matches would be for SSA and USCIS to share information about name changes.** The number of SSA name mismatches due to name changes could be reduced if USCIS sent information from naturalization records to SSA indicating there was a name change made at that time.[69] Similarly, USCIS name mismatches could be reduced if SSA provided USCIS with information about noncitizen workers who report name changes to them.

**The Form I-9 and E-Verify could be modified to ask for "other names ever used" instead of maiden name, with that information then being entered into the system so it could be used in the name-matching process.** Making a regulatory change to modify the Form I-9 and E-Verify to collect "other names used" instead of restricting the request to maiden names, and then using the information collected for the name match, would presumably increase the chances of a match with SSA and DHS databases that may contain the former name. This is especially the case for SSA, which allowed use of alternate or nicknames on SSA records until relatively recently.

**USCIS should not charge fees to noncitizens who wish to correct fields used in the E-Verify match[70] since the current high fees for changing biographic information and new documents discourage reporting changes, which results in uncorrected information and unnecessary TNCs.** Charging fees to change names and other biographic information on DHS databases and documentation is a major disincentive for noncitizens to provide updated information to DHS. To eliminate these charges, either USCIS will need to spread the cost of making biographic changes across other fees or Congress must approve appropriated funding for this purpose.

**Workers should be required to use their legal names in completing the Form I-9.** The Form I-9 should be modified to make it clear that legal names should be used. This modification could be made either to the Form I-9 instructions and/or in the form itself as part of the Form I-9 redesign project. USCIS reports that it has started advising workers over the Internet to use their legal name and will add this guidance to hard-copy materials later this year.

## 2.5. Form I-94 Number Not Found

### 2.5.1. Introduction

This section examines reasons that might explain why it is often difficult to locate I-94 numbers for employment-authorized workers. It also provides suggestions for decreasing the number of FNCs issued to employment-authorized workers for the reason of an I-94 number not being found.

### 2.5.2. Findings

**One reason for not locating Form I-94 cases is that employers sometimes put an A-number into the I-94 number field in E-Verify.** MPAs reported that it was not unusual for them to be able to clear a case at second-level review if the Form I-94 number submitted had two leading or trailing zeros, which was presumably done to make the 9-digit A-number an 11-digit I-94 number. Cases in which the submitted Form I-94 number appeared likely to be an A-number constituted less than 1 percent of all FNCs issued to employment-authorized workers but had a below-average FNC accuracy rate of only 62 percent (Exhibit IV-6).

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[69] Information is available for more recent naturalization cases in USCIS naturalization databases that are now checked prior to issuing a TNC for workers claiming to be citizens when SSA cannot confirm them, but these systems do not have information from older naturalization records.

[70] Eliminating these fees would also assist matches in the Systematic Alien Verification for Entitlements Program (SAVE) and national security initiatives.

**Exhibit IV-6. Form I-94 Mismatches, by Whether Form I-94 Number Appears to be an A-Number: FY 2009**

| Type of mismatch | Two leading or trailing zeros | No leading/ trailing zeros |
|---|---|---|
| FNC accuracy rate | 62.1 | 0.0 |
| Percent of all employment-authorized FNCs | 0.7 | 5.1 |
| Percent of all unauthorized FNCs | 0.0 | 0.0 |

SOURCE: E-Verify Transaction Database: FY 2009.

**Form I-94 cases, other than the cases with two leading or trailing zeros, accounted for approximately 5 percent of FNCs issued to employment-authorized workers and have an estimated FNC accuracy rate of less than 0.5 percent.** As discussed in Chapter III, there are significant problems with the timeliness of data available for workers who use a Form I-94 as their proof of employment authorization. There have been some efforts to improve timeliness for certain comparatively small groups of nonimmigrant workers; however, timeliness remains a significant problem. It is reasonable to assume that it is not unusual for employment-authorized workers using a Form I-94 to start work prior to their records being input into DHS databases and that explains, at least in part, why accuracy for workers using the Form I-94 is extremely low. However, an FNC accuracy rate at or close to 0 percent also means that there are few unauthorized workers in the category of "Form I-94 number not found." One can speculate that one reason for so few unauthorized cases being identified by the Form I-94 check is that Forms I-94 are rarely used by unauthorized workers seeking employment, in part because in most cases, workers using this form are coming to work for an employer that petitioned for them or they are in a specific program known to the employer.

### 2.5.3.   Possible Improvements

**To avoid most of the FNCs that go to employment-authorized nonimmigrant workers whose employment authorization is documented on Forms I-94, the Form I-94 information needs to be entered into the databases in a more timely manner.** Implementing changes to substantially improve DHS Form I-94 database timeliness is likely to be time-consuming and expensive because it involves a fundamental change in how these data are managed. The evaluation team was told that by 2013 arrival of all nonimmigrants should be electronically documented at the time of their admission, which should resolve this issue.

**The Arrival/Departure Information System (ADIS) data from the DHS US-VISIT Program may also be of significant value in identifying recent arrivals.** Based on information from CBP, this database would be a good source of information for verification of recent noncitizen arrivals and could replace use of the Advanced Passenger Information System (APIS), which is less reliable for this purpose.

**One improvement to the process of locating Form I-94 numbers that should be fairly easy to implement is to check automatically whether Form I-94 numbers are, in fact, A-numbers.** As was done for this evaluation, Form I-94 numbers can be considered to be likely A-numbers entered incorrectly when Form I-94 numbers on the Form I-9 cannot be matched with Form I-94 numbers on the Verification Information System (VIS) and the number input by the employer has two leading or trailing zeros.[71] In this situation, a supplemental automated match of the Form I-94 without the trailing or leading zeros to the A-number could be made with minor changes to the E-Verify software.

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[71] See Chapter V, Section 4.1.4, for a discussion of the possible use of edits and employer outreach to accomplish this. However, there is little doubt that cases in which an I-94 number cannot be located are relatively costly and inaccurate.

**Another possible strategy for locating more Form I-94 cases during the automated review process would be to make greater use of Form I-9 biographical and identifying information (other than the Form I-94 and A-numbers) to locate cases.** All E-Verify cases submitted for noncitizens start with locating the case by Form I-94 or A-number. However, these cases have additional identifying information from the Form I-9 that might locate the record during the automatic USCIS search if there is not an automatic match on number. These Form I-9 data include first name, last name, date of birth, and SSN. Additional database searches could be done using these identifiers. However, it appears that the primary reason for I-94 number not found is that these are cases that have not been entered into DHS databases in a timely fashion. Searching DHS databases using I-94 information on the worker would be unlikely to have a major impact on E-Verify accuracy.

**If identifying information other than Form I-94 numbers is used for searching DHS databases, it would be desirable to compare the Form I-94 number for the located case with the one entered into E-Verify to determine whether it is likely that typographical errors or poor handwriting led to the mismatch.** If a case uses SSN or biographic information for identification of numbers, it would be reasonable to consider cases matched only if it appears that the Form I-94 number is a typographical error, such as reversal of two digits, omission of a digit, or a similar error.

**Until the Form I-94 form processing is more timely, USCIS may wish to consider a procedural remedy to improve the FNC accuracy rate for Form I-94 not-located cases.** One short-term procedural remedy for Form I-94 timeliness cases would be for E-Verify to issue a provisional employment-authorized status which could be rechecked after a reasonable time has elapsed to make it likely that the case has been properly recorded on the database. [72]

## 3. TIER 2 REASONS

### 3.1. Background

For the purposes of this analysis, cases in categories not identified as Tier 1 cases were classified as Tier 2 cases if they had FNC accuracy rates below 85 percent.

### 3.2. What Types of Cases Have Unusually Low Accuracy Rates?

**Among cases not in Tier 1, those cases related to workers in most of the immigration statuses that are ambiguous as to whether they are employment authorized have well below average accuracy rates** . For workers who are students or exchange visitors, FNC accuracy rates were 76 percent and 81 percent, respectively (Exhibit IV-7). Cases located in the Image Storage and Retrieval System (ISRS) with unknown authorization status had an FNC accuracy rate of 58 percent.[73] The only type of ambiguous status cases that are not in Tier 2 are cases classified as "other" unclear authorization status. The FNC accuracy rate for these cases was 91 percent (somewhat lower than the overall average of 94 percent).

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[72] See also Section 3.4 of this chapter which discusses a subset of the I-94 cases that have immigration statuses that do not clearly indicate whether they are employment authorized.

[73] Cases with unclear immigration status based on information in ISRS were not further classified by the reason that the immigration status was unclear.

**Exhibit IV-7. FNC Accuracy Rates of Tier 2 Cases: FY 2009**
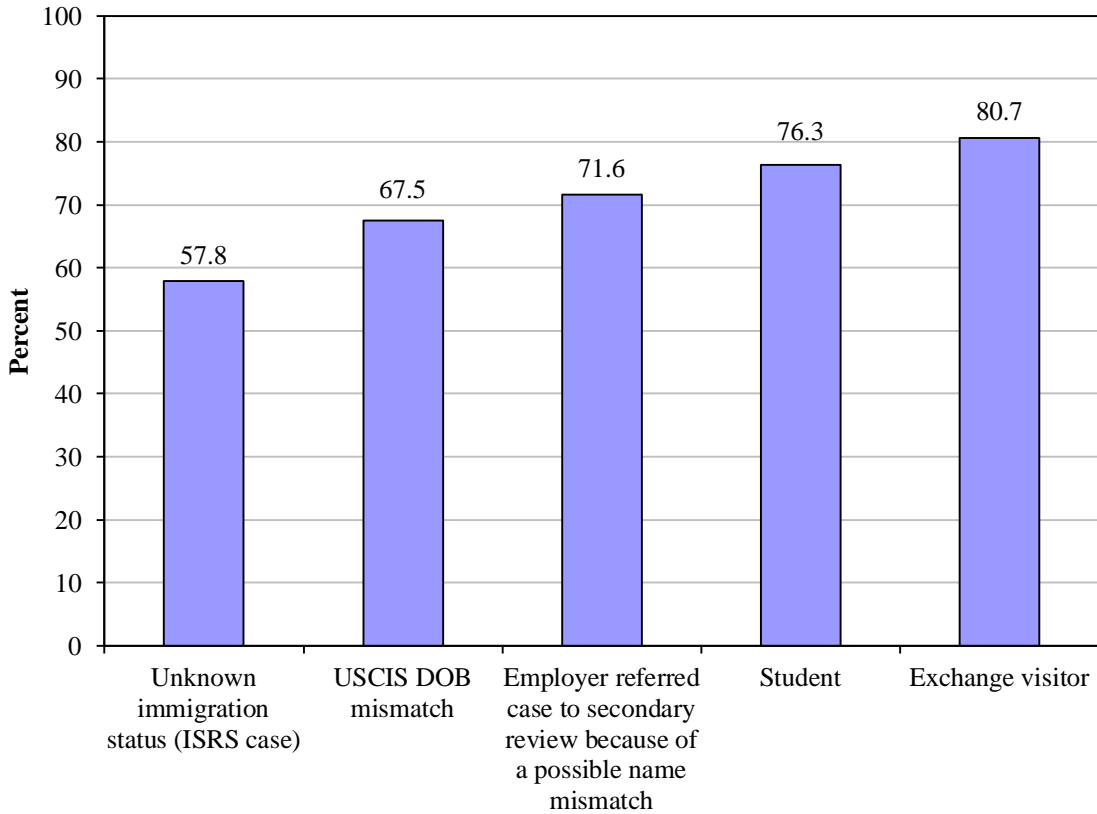


SOURCE: E-Verify Transaction Database: FY 2009.

**Other types of cases with accuracy rates that were well below average are USCIS cases referred by employers for second-level review because of name mismatches and cases in which USCIS found a date of birth mismatch but not a name mismatch.** USCIS cases referred by employers for a USCIS second-level review because of name mismatches with Form I-9 information had an estimated FNC accuracy rate of 72 percent. Cases in which USCIS determined that there was a date of birth mismatch but not a name match had an FNC accuracy rate of 67 percent.

### 3.3.    Other Measures Affecting Resource Decisions

**Tier 2 cases accounted for few of the FNCs issued to employment-authorized workers and even a smaller percentage of FNCs issued to unauthorized workers.** The five Tier 2 categories combined accounted for approximately 9 percent of FNCs to employment-authorized workers and approximately 1 percent of FNCs issued to unauthorized workers (Exhibit IV-8).

**Exhibit IV-8. Percent of FNCs Issued to Employment-Authorized Workers and Percent of FNCs Issued to Unauthorized Workers Accounted for by Tier 2 Reasons: FY 2009**
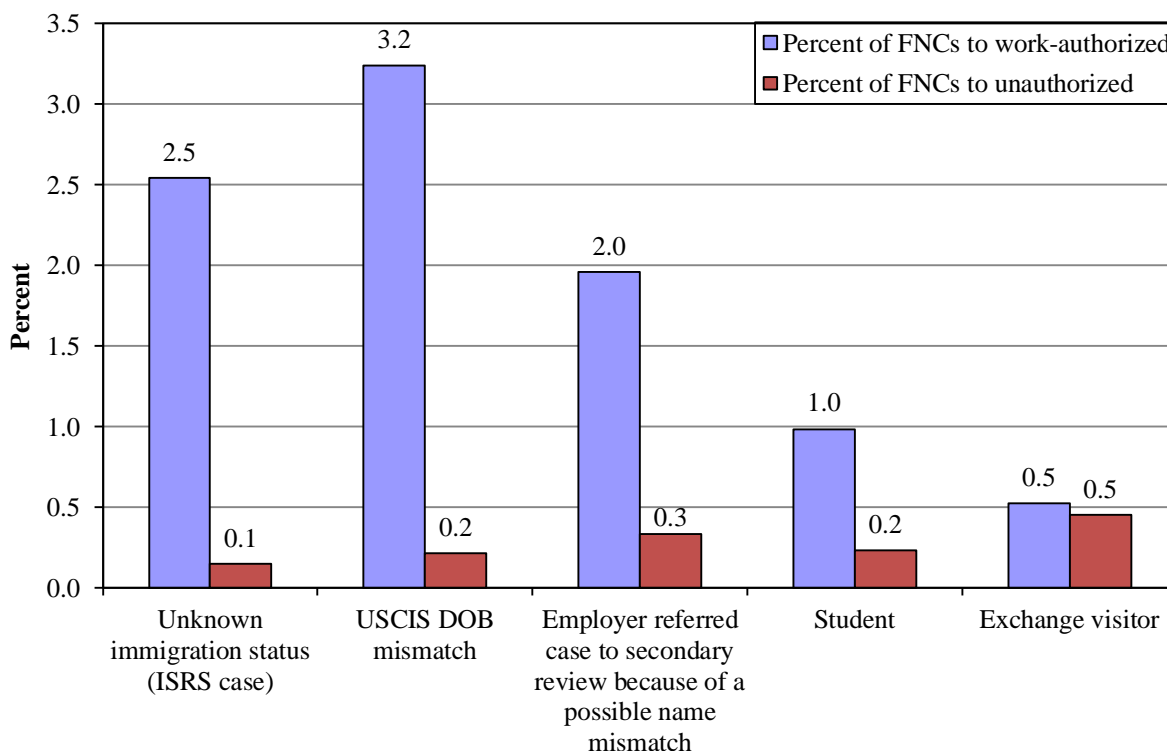


SOURCE: E-Verify Transaction Database: FY 2009.

### 3.4. Immigration Status Does Not Clearly Indicate if Nonimmigrant is Authorized to Work

#### 3.4.1. Introduction

When information in DHS systems does not clearly indicate workers are in an employment-authorized status, one of three decisions can logically be made in the automatic process:

- All cases can be sent for a second-level review;

- All cases can be considered employment authorized; or

- The decision about whether to refer to second-level review can depend upon supplemental information in each case record.

Transaction Database data indicate that in FY 2009, E-Verify used one of the first two alternatives for workers who were in immigration statuses where employment authorization was not clear. How these cases are handled requires a judgment call on the part of USCIS, which reasonably varies by immigration status. Only information for those immigration statuses currently referred to second-level review can be analyzed using the methods in this chapter.

**FINAL NONCONFIRMATION ACCURACY RATES CHARACTERIZED BY THE REASONS
WORKERS WERE NOT AUTOMATICALLY FOUND EMPLOYMENT AUTHORIZED**

**IV**

### 3.4.2. Findings

**FNC accuracy rates for students and exchange visitors who work for educational institutions were much lower than for students and exchange visitors who work for employers in other industries.**
Exhibit IV-9 provides information on the FNC accuracy rates for students by industry code reported by their employers, and Exhibit IV-10 provides the same information for exchange visitors. Not surprisingly, the FNC accuracy rates for both students and exchange visitors employed by educational institutions were very low at 38 and 19 percent, respectively, presumably because most educational programs are approved for employment of students and exchange visitors.

**Other industries associated with especially low accuracy rates for students and exchange visitors are the professional, scientific, and technical industry and the information industry.** The accuracy rate for students working in professional, scientific, and technical industries was 81 percent and the accuracy rate for exchange visitors was 76 percent. The corresponding rates for the information industry were 76 percent for students and 68 percent for exchange visitors.

**Exhibit IV-9. Estimated FNC Accuracy Rates for Students, by Industry: FY 2009**
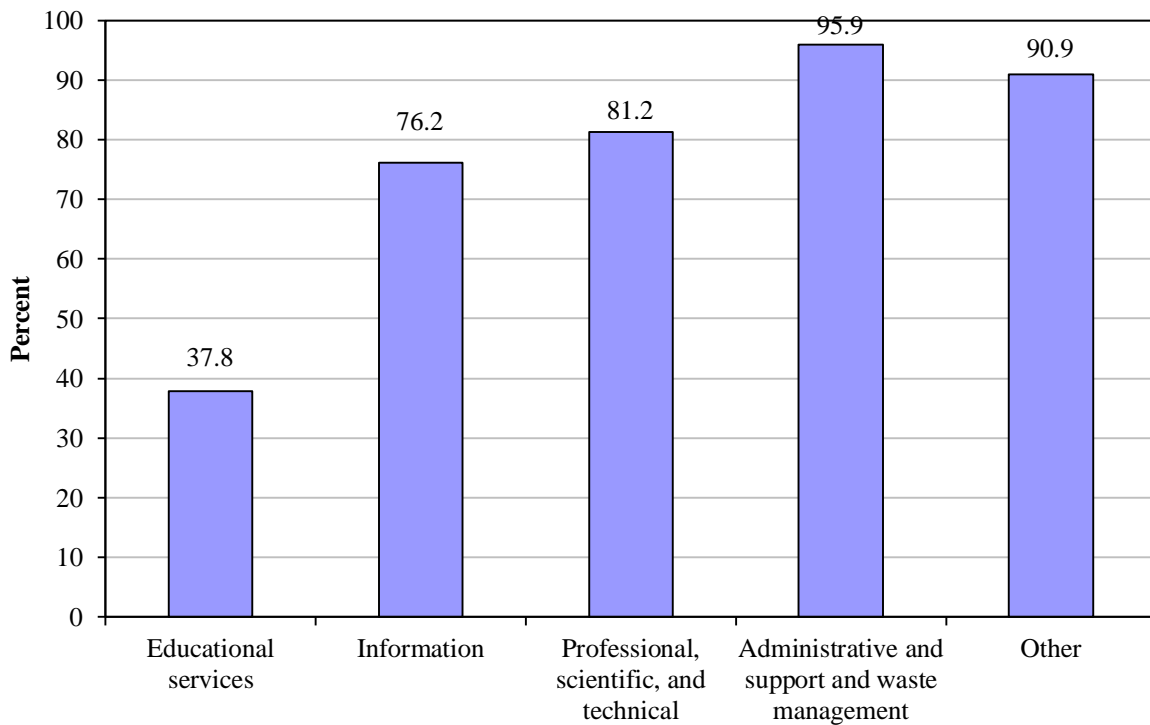


SOURCE: E-Verify Transaction Database: FY 2009.

**Exhibit IV-10. FNC Accuracy Rates for Exchange Visitors, by Industry: FY 2009**
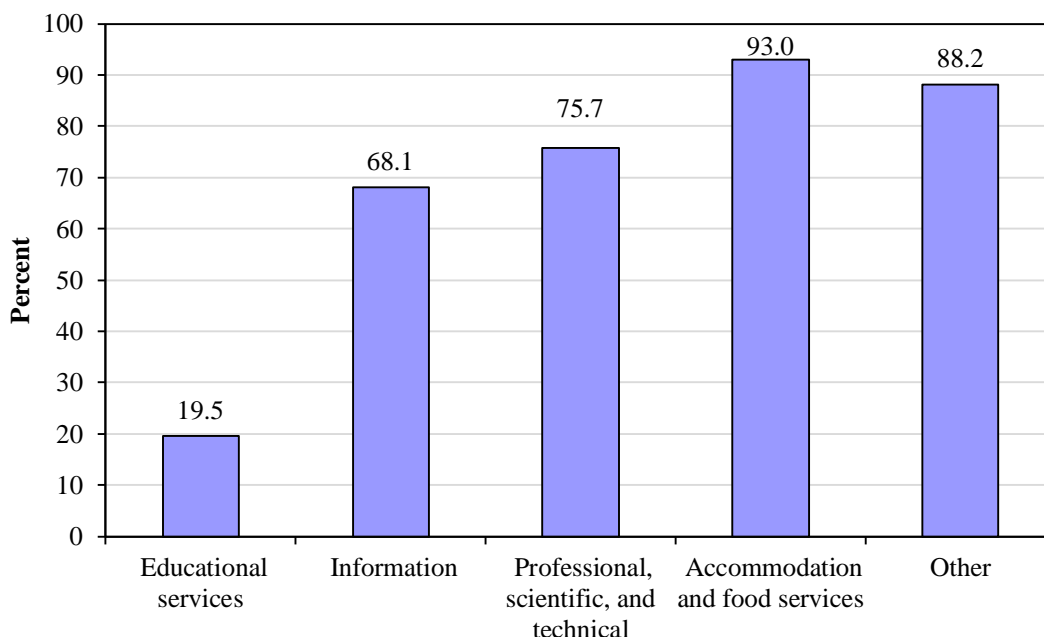


SOURCE: E-Verify Transaction Database: FY 2009.

### 3.4.3.    Possible Improvements

**If the Department of State and DHS created unique codes to always differentiate between nonimmigrants who are work authorized and their spouses and children who are or may not be employment authorized, it would permit more efficient verification of noncitizens.** Currently, a few nonimmigrant statuses[74] do not differentiate between workers with employment-authorized status and persons admitted as their spouses and children who may not be employment authorized. This creates problems for E-Verify because it is impossible to know, based on the class of admission, whether nonimmigrants in an ambiguous status are employment authorized.

**One option to address the low accuracy rates associated with Tier 2 cases with unclear immigration status is to find them employment authorized automatically.** Workers with unclear immigration statuses could be considered employment authorized automatically if they meet all the other E-Verify criteria, including having a valid SSN, which is only issued to noncitizens who have established at some time that they were employment authorized.[75] Although this suggestion may seem to contradict the intent of E-Verify, this approach is presently being used by E-Verify for a number of employment-based nonimmigrant classes of admission that require employer sponsorship and where it is possible that the ostensibly authorized worker is not necessarily meeting the approved conditions of employment. It can also be considered consistent with the practice of using matching algorithms that make it easier for workers to be found employment authorized to avoid excessive numbers of FNCs going to employment-authorized workers.

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[74]Examples of such codes are the E-1, E-2, E-3, and I categories.

[75]In certain rare circumstances, SSA issues nonwork cards to noncitizens who are not work authorized but need an SSN to be eligible to receive certain public benefits.

FINAL NONCONFIRMATION ACCURACY RATES CHARACTERIZED BY THE REASONS
WORKERS WERE NOT AUTOMATICALLY FOUND EMPLOYMENT AUTHORIZED

IV

**An alternate strategy for verifying students and exchange visitors is to automatically find them to be employment authorized if their employers are in selected industries.** Since students and exchange visitors are generally only authorized to work for particular types of employers, it is possible to use the information about the E-Verify employer industry to determine whether a case should be cleared automatically. For instance, educational institutions and the information and professional, scientific, and technical industries would be good candidates for allowing automatic verification of employment authorization for students and exchange visitors.

**Yet another alternative to either automatically clearing all students and exchange visitors or clearing those student and exchange visitor cases in certain industries is to incorporate Student and Exchange Visitor Information System (SEVIS) data into VIS, so that information is available to allow additional checking of students and exchange visitors.** This modification is under consideration by Immigration and Customs Enforcement (ICE) and USCIS and they report it will be made once enhancements to SEVIS are implemented. Since MPAs currently use SEVIS during the second-level review, the major impact of this change would presumably be to find more cases automatically employment authorized rather than authorized at second-level review. Thus, the FNC accuracy rates would presumably remain low for students and exchange visitors.

### 3.5.    USCIS Date of Birth Only Mismatch Cases

### 3.5.1.    Findings—Date of Birth Errors

**SSA Service Representatives and USCIS MPAs cited two types of date of birth errors as common:**

- **Reversal of month and day in the date of birth:** This is especially likely for workers from countries where it is standard to record dates as dd/mm/yyyy rather than the typical mm/dd/yyyy coding used in the United States. It is possible for a mismatch to occur if such a possibility is not allowed for in the algorithm.[76]

- **Confusion of birth date and date of registration:** MPAs reported that date of birth is a major source of TNCs because some countries use the date the birth was registered with officials as the date of birth on official documents, but a person may use their actual date of birth on other documents such as the I-9. For this reason, the date on a foreign passport or birth certificate may vary by days or even weeks from the actual birth date used on U.S. documents such as the I-9, creating a mismatch on date of birth in official records checked by E-Verify.

### 3.5.2.    Findings—Accuracy Rates

**Accuracy rates tend to be fairly low for all USCIS date of birth categories.** As seen in Exhibit IV-11, the relatively low FNC accuracy rate for date of birth cases cannot be attributed primarily to month and day reversals (which had an FNC accuracy rate of 68 percent), since these rates are very close to the rates for all USCIS date of birth only mismatches.[77] Date of birth mismatches associated with cases in which the DHS database and the Form I-9 dates differed by less than 31 days, as is likely to be the case when the worker confuses date of birth registration and actual date of birth, had slightly above average accuracy rates among the date of birth mismatch cases. The FNC accuracy rate for these cases was 70 percent

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[76] In FY 2009, the USCIS algorithm did not allow such a reversal; however, this modification of matching procedures was made in June 2010.

[77] Considering month and day reversals to be matched is a change that was made after FY 2009.

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compared to the overall rate of 67 percent. The lowest date of birth FNC accuracy rates were for cases having birth dates 31 or more days apart that are not month and day of birth reversals (62 percent). The low FNC accuracy rate for this category of cases may be attributable to the relative difficulty of clearing cases in this category during the second-level review.

**Exhibit IV-11. FNC Accuracy Rates for Date of Birth Mismatch Cases, by Characteristics of Date of Birth Mismatch: FY 2009**
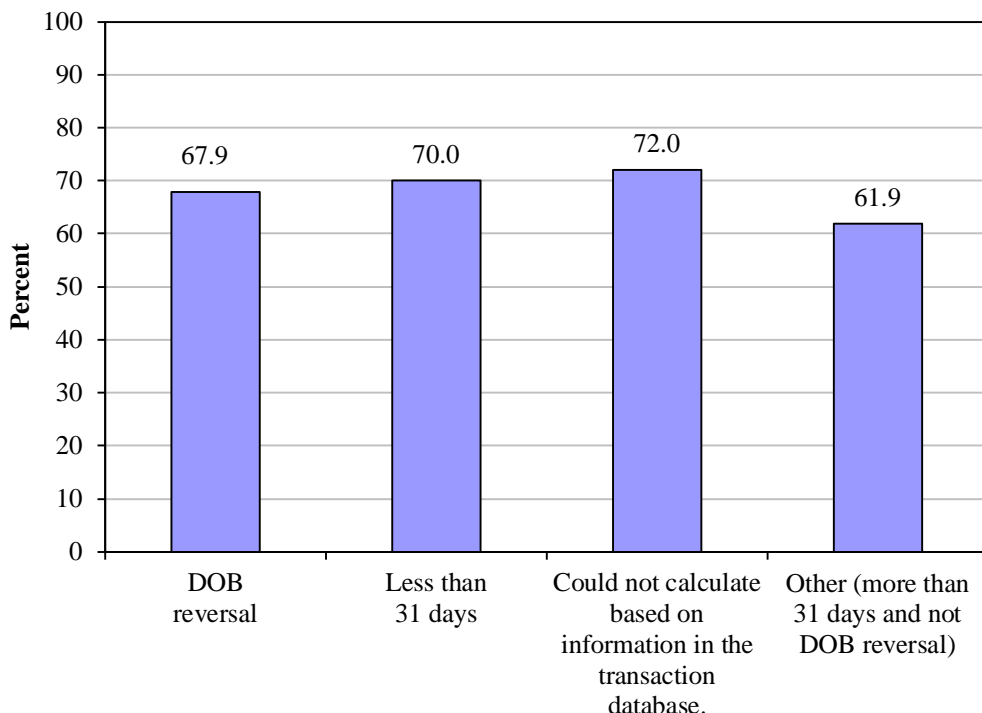


SOURCE: E-Verify Transaction Database: FY 2009.

### 3.5.3    Possible Improvements

**USCIS should consider making the date of birth matching algorithm more lenient in order to reduce the number of date of birth mismatches.** Although the analysis does not point to clear changes to the algorithm, it is reasonable to modify the algorithm to permit finding all cases in which there is a discrepancy of less than 31 days to be work authorized automatically.

### 3.6.    Employer-Referred Name Mismatch Cases

### 3.6.1.   Introduction

Because the USCIS name-matching algorithm used in the automated process is very tolerant of differences between the Form I-9 name information and DHS database information, the E-Verify employer manual instructs employers:

> In some cases E-Verify generates a case result of "Employment Authorized," but the name returned in E-Verify does not match exactly with the name on Form I-9. This happens when the information matches but there are name variations in the DHS databases. You must review the employee's name before

a final case result can be determined. This will ensure that the case result belongs to the intended employee.

If the employer decides that the E-Verify name is inconsistent with the Form I-9 name, the employer is supposed to request a second-level review of the case through the E-Verify system.

### 3.6.2.   Findings

**It appears that there is considerable variation among employers in deciding when to refer cases for second-level review because of name mismatches.** To determine the consistency of employers in making the decision to refer cases in which the Form I-9 name and the name returned by E-Verify differ, the evaluation team compared the Form I-9 name and the DHS database name returned to the employer (Exhibit IV-12). Only 7 percent of all names classified as different by an automated matching routine conducted as part of the evaluation were referred for second-level review. Referral rates were no higher than 9 percent for any type of name discrepancy. It seems likely, therefore, that there are considerable inconsistencies with whether and how employers review names after an employment-authorized finding is returned.

**Exhibit IV-12. Percent of Cases Referred to E-Verify by Employer for Second-Level Review, by Type of Name Difference: FY 2009**
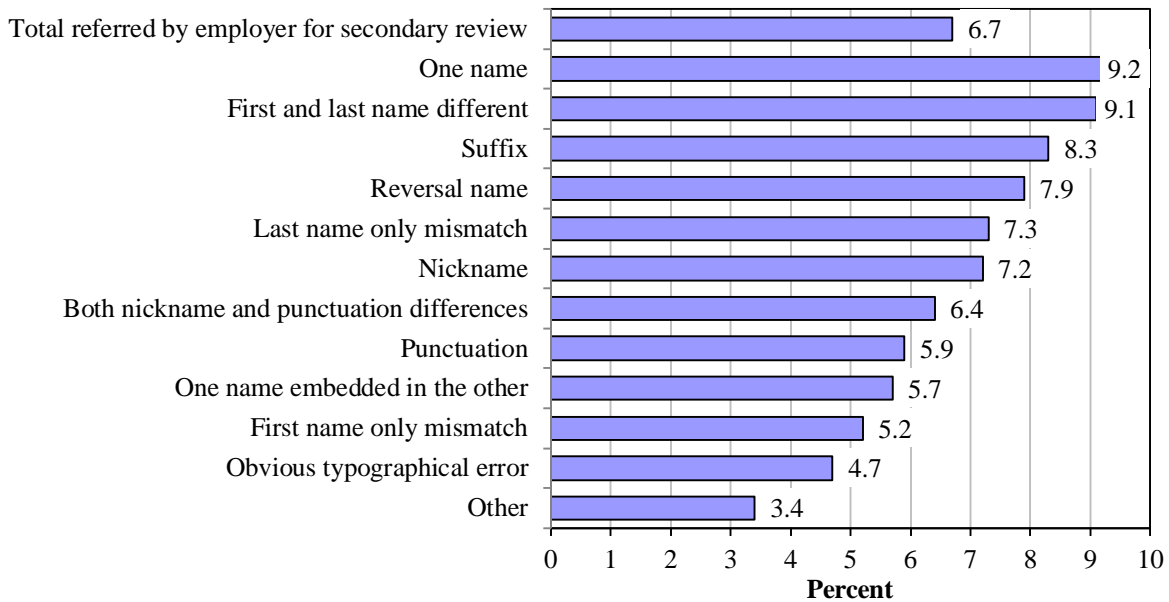


SOURCE: E-Verify Transaction Database: FY 2009.

### 3.6.3.   Possible Improvements

**One approach to the employer-initiated name cases would be to substitute a more stringent USCIS name-matching algorithm and eliminate employer-initiated name reviews.** Given the low accuracy rate of employer-initiated name cases, it is worth considering this change. This is especially true if USCIS were to decide to make its name-matching algorithms more stringent, as discussed in Chapter III, Section 3.5.3.

## 4. DIFFERENCES BETWEEN CITIZENS AND NONCITIZENS

### 4.1. Introduction

As discussed in Chapter I, the initial legislation authorizing electronic employment verification programs explicitly stated that the Program is not to be discriminatory. The overall findings in Chapter III indicated that there are still significant differences in the erroneous TNC rates of citizens and employment-authorized noncitizens. This section presents some additional findings and recommendations about the differences in the erroneous TNC rates between citizens and noncitizens.

- **Broad reason for the TNC being issued** (i.e., identifying number not located or invalid, name mismatches, date of birth mismatches, mismatches on name and date of birth, employment-authorization status cannot be confirmed, and employer referrals). This analysis breaks down the overall erroneous TNC rates for citizens and noncitizens by reason for not automatically finding the cases employment authorized in order to determine the relative importance of these reasons in explaining the gap in erroneous TNC rates between citizens and noncitizens.

- **Types of names** (name only, punctuation within the first name, punctuation within the last name, names with strings of four or more consonants, names with suffixes, and names that do not belong in any of the above categories).[78] The erroneous TNCs in this section are the rates for all citizens or noncitizens who have a particular type of name. This analysis is important because many stakeholders are concerned that noncitizens may receive erroneous TNCs because employers make relatively frequent typographical errors when entering types of names with which they are less familiar.

### 4.2. Findings

**The gap in the erroneous TNC rates for citizens and noncitizens cannot be easily explained by looking at the components of the gap attributable to case characteristics.** As seen in Exhibit IV-13, there are not one or two case characteristics, such as name mismatches or confirmation of employment-authorization status, that explain all or most of the total gap between the erroneous TNC rates of citizens and noncitizens. The most important component of the erroneous TNC rate for both citizens and noncitizens is inability to confirm employment-authorization/citizenship status, but the rate is much higher for noncitizens (0.6 percent for noncitizens compared to 0.1 percent for citizens). The second highest component of the erroneous TNC rate for both citizens and noncitizens is name only mismatch (0.4 percent for noncitizens compared to 0.1 percent for citizens).

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[78]Compound names could not be easily identified for this analysis from the information available in the Transaction Database, so it is not possible to compare compound names with other types of names for this analysis.

FINAL NONCONFIRMATION ACCURACY RATES CHARACTERIZED BY THE REASONS
WORKERS WERE NOT AUTOMATICALLY FOUND EMPLOYMENT AUTHORIZED

IV

**Exhibit IV-13. Components of the Erroneous TNC Rates, by Citizenship Status: FY 2009**
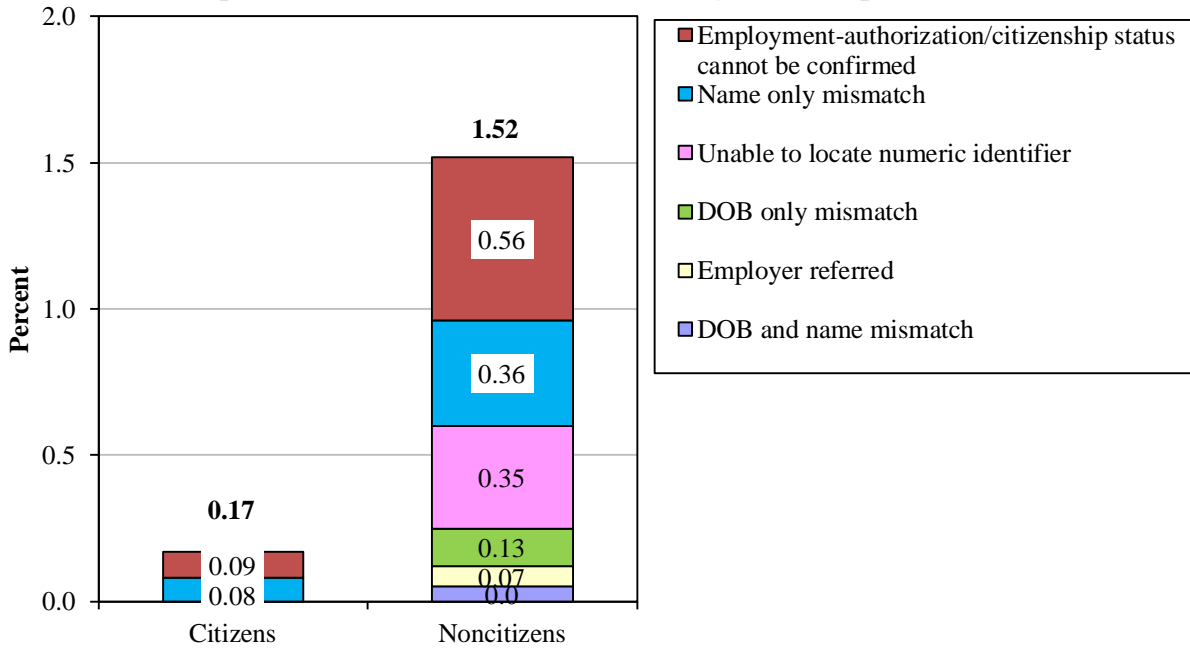


NOTE: The gap in the chart may not equal the difference between the citizen and noncitizen rates because of rounding since calculations used more digits than displayed.
SOURCE: E-Verify Transaction Database: FY 2009.

**Most of the gap between citizen and noncitizen erroneous TNC rates can be explained by three types of TNCs: employment-authorization/citizenship status cannot be confirmed, name only mismatch, and unable to locate numeric identifier.** The largest gap in the erroneous TNC rates between citizens and noncitizens is 0.5 percent for employment-authorization/citizenship status cannot be confirmed. The second largest is for unable to locate numeric identifier (0.3 percent), and the third is for name only mismatches (0.3 percent). Collectively, these rates account for 82 percent of the erroneous TNC gap between citizens and noncitizens. These results are, of course, not surprising given the above discussion of the steps in the E-Verify process that contribute most to explaining low FNC accuracy rates.

**For both citizens and noncitizens, the highest erroneous TNC rates were for workers with only one name.** Citizens having only one name have an erroneous TNC rate of 0.5 percent compared to the 0.2 percent for citizens who do not have any of the error-prone name types identified (Exhibit IV-14). For noncitizens, the erroneous TNC rate for workers with one name is 2.8 percent compared to 1.4 percent for workers who do not have any of the error-prone name types identified. Workers whose name contains punctuation in the first name have the second highest erroneous TNC rates among both citizens and noncitizens (0.4 and 2.4 percent, respectively).

**Exhibit IV-14. Erroneous TNC Rates, by Citizenship Status and Type of Name: FY 2009**
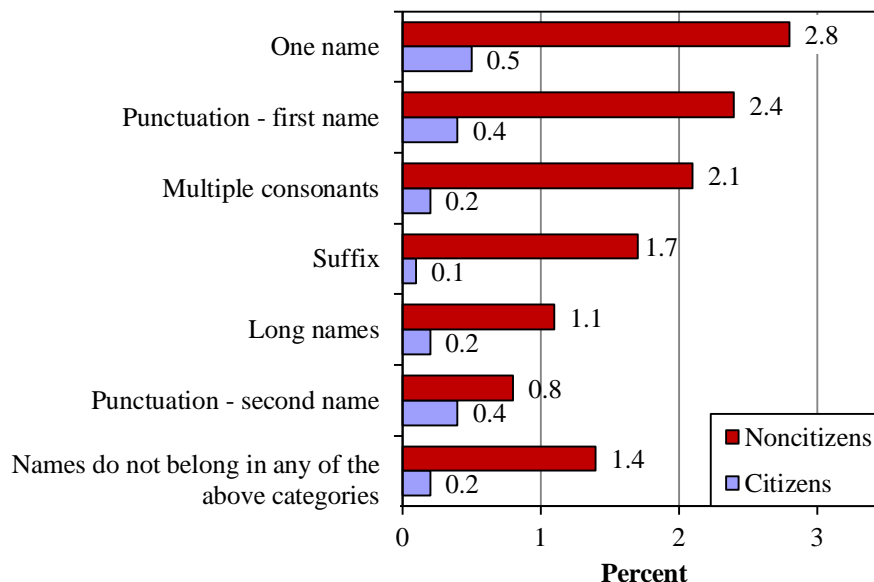


NOTE: The gap in the chart may not equal the difference between the citizen and noncitizen rates because of rounding, since calculations used more digits than displayed.
SOURCE: E-Verify Transaction Database: FY 2009.

### 4.3.    Possible Improvements

**Since only noncitizen cases are subject to review by USCIS, one obvious approach to narrowing the accuracy gap between U.S. citizens and employment-authorized noncitizens is to place a priority on improving the accuracy of the USCIS review steps.**

**To address problems for workers who only have one name, it would be helpful to standardize the ways that these names are recorded.**[79] Currently, Federal agencies do not have a standard convention for listing single names on forms, entering them in their databases, or printing them on official documentation, nor are there adequate instructions on how to list a single name on the Form I-9. Standardization among agencies and better I-9 instructions would make it less likely that name mismatches will occur.

**It would be reasonable to focus modifications of name-matching algorithms on those types of names most frequently associated with erroneous TNC rates.** Examples of ways that name algorithms could be modified to decrease the erroneous TNC gap between citizens and noncitizens are as follows:

*   The name-matching algorithms could be used to recognize single names and consider them matched if they use different conventions for indicating that the worker has only one name.

*   Punctuation errors can be addressed by comparing names that have been stripped of punctuation prior to matching.

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[79]This might be possible to accomplish by modifying matching algorithms to check for the various ways that are used to indicate that this is a one-name case (e.g., either the first or the last name may be left blank; the name may be entered as both the first and last name; there may be an abbreviation inserted to indicate that there is no first name or no last name). However, changing the E-Verify algorithm would not improve the accuracy of the underlying databases which are used for other programs, including those involving national security.

# CHAPTER V. CONCLUSIONS AND RECOMMENDATIONS

## 1.    BACKGROUND

### 1.1.    Introduction

It is possible to approach the topic of E-Verify accuracy from multiple perspectives, each of which is helpful in understanding this complex topic. The primary approach of Chapter III was to examine accuracy during the different stages of the E-Verify process. Chapter IV focused on the accuracy of decisions made during the automated review process that were most likely to result in employment-authorized workers receiving Final Nonconfirmations (FNCs) and also examined the effectiveness of these review decisions as measured by the FNC accuracy rate. The approach of this chapter is to focus on the challenges to E-Verify accuracy presented by each of the following stakeholder groups that play major roles in E-Verify: workers, employers, and the Federal government.

This chapter highlights what the evaluation team believes are the key challenges to E-Verify and makes recommendations on how to address them as U.S. Citizenship and Immigration Services (USCIS) and the Social Security Administration (SSA) continue their long-standing practice of improving E-Verify accuracy.[80] Although the recommendations in this chapter rely heavily on the analyses in the preceding chapters and recommendations from individuals interviewed during the evaluation, they also take into account additional information: (1) the Program's goals stated in the legislation authorizing electronic employment verification, i.e., to decrease unauthorized employment without undue employer burden or increasing discrimination; (2) the unwritten assumptions that the rights of all employment-authorized workers need to be protected; (3) the reality that Federal expenditures for the Program should be cost-effective; and (4) findings in prior evaluation reports that took a more comprehensive focus on E-Verify.[81]

Some of the recommendations in this chapter are for initiatives that can be implemented easily and with little cost by Federal agencies, e.g., making minor changes to the E-Verify software. Other recommendations would be more difficult and/or more expensive to implement, e.g., recommendations that require regulatory or even statutory changes to implement. Although the evaluation team has tried to form recommendations for cost-effective ways to increase the accuracy of E-Verify findings, complete cost-benefit analyses of options were beyond the scope of this study. Such analyses would require examining the costs for implementing the changes and the benefits of such implementation not just for employment verification, but for other programs. For example, increased accuracy of biographic data on Federal databases would be likely to have benefits for programs other than E-Verify, including programs involving national security.

The remainder of this background section summarizes the major overall findings of the evaluation. The three following sections discuss challenges to E-Verify accuracy for workers, employers, and the Federal government. The final section of the chapter discusses future research needed to further improve E-Verify accuracy.

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[80]Chapters III and IV present a number of findings and options not discussed here that others may believe are more important, because of cost or other considerations that the team was not fully aware of, than the ones highlighted by the evaluation team.

[81]See Westat, *Findings of The E-Verify® Program Evaluation*, December 2009, (http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=3a351e56d3856210VgnVCM100000082ca60aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD).

### 1.2.    Overall Accuracy

**E-Verify accuracy is currently reasonably high and has increased over time.** E-Verify accuracy as measured by the erroneous Tentative Nonconfirmation (TNC) rate (i.e., the percentage of workers who were found work authorized at any point in the verification process who received a TNC prior to being found work authorized) has declined over time. In fiscal year (FY) 2009, it was 0.3 percent. The accuracy of E-Verify as measured by the FNC accuracy rate (i.e., the percentage of workers receiving FNCs who are estimated to be unauthorized workers) was approximately 94 percent.

**Differences in the erroneous TNC rates of citizens and noncitizens continue to be an issue for E-Verify.** In FY 2009, the erroneous TNC rate for noncitizens was 1.5 percent compared to 0.2 percent for U.S citizens. Furthermore, the rate for citizens has decreased over time, while the rate for noncitizens has not.

## 2.    WORKERS

**The major challenge to E-Verify accuracy attributable to workers is the use of fraudulent documents by unauthorized workers to obtain employment-authorized findings.** In the December 2009 evaluation report, it was estimated that approximately half of the unauthorized workers used identity fraud or other fraudulent means to obtain an inaccurate finding of employment authorized. The major recommendations to combat unauthorized workers fraudulently obtaining findings of employment authorized are as follows:

- **Explore on a pilot basis whether some of the automated decision rules used in E-Verify are too lenient, thus allowing a relatively large number of unauthorized workers to be found employment authorized.** One example of a decision rule that may be too lenient is the current algorithm used in the USCIS name-matching process.

- **Determine on a pilot basis the accuracy and cost-effectiveness of issuing expedited TNCs to cases when there is information pointing to workers being highly likely to be unauthorized.** Information from the USCIS monitoring and compliance unit could be used to identify characteristics of cases highly likely to be unauthorized, such as workers using Social Security numbers (SSNs) that have been widely and frequently used or workers who have had several prior FNCs.[82] These workers could be allowed a shorter time period in which to contest the TNC. This would reduce the period of unauthorized employment at any employer participating in E-Verify.

- **Conduct additional outreach to employers to make them aware that E-Verify does not exempt them from checking proffered documents to ensure that they appear to be valid and belong to the person using them.** USCIS Management Program Assistants (MPAs) mentioned cases of employers' finding it more comfortable to use the E-Verify case resolution process than to fire workers with Form I-9 documents that they think are fraudulent. Outreach should be done to make it clear to employers what their responsibilities are for reviewing documents. Such outreach could also be used to educate employers in how to identify fraudulent identity documents.

- **Further restrict the documents that workers can use in the E-Verify Program to make it more difficult for workers to use easily-counterfeited documents.** Currently, workers have considerable

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[82]Workers having several previous FNCs may be working a sequence of jobs during the contesting period.

flexibility in which documents to use in the Form I-9 process. This permits unauthorized workers to use information about employment-authorized workers on counterfeit documents. The number of document types considered acceptable in the Form I-9 process has been reduced in the past. The evaluation team suggests that the list of documents be further decreased, focusing on eliminating those documents believed to be most frequently used by unauthorized workers.

## 3. EMPLOYERS

### 3.1. Worker Notification

**The major challenge to E-Verify accuracy attributable to employers appears to be the failure of some employers to notify workers of TNCs received.** If all employment-authorized workers were informed of their TNCs and how to contest them, the evaluation team estimates that the FNC accuracy rate in FY 2009 would have been 99 percent instead of 94 percent. Recommendations for addressing this challenge are as follows:

- **On a pilot basis, the Federal government should send workers notification about their TNCs and the procedures for contesting them in addition to the requirement that employers need to notify the workers receiving TNCs.** A pilot test should be done in which employers are required to enter worker address information into E-Verify. TNC notices should be sent to workers at the Form I-9 address to increase the probability that the worker will be notified of the TNC.[83] The pilot should be evaluated to determine its impact on E-Verify as well as its feasibility and costs. In addition to making it more likely that workers would have information needed to contest an inaccurate finding, this would help workers understand their rights so that they are more likely to hold employers accountable. Because of the time for mailing, this might require an adjustment in the time allowed for contesting TNCs (perhaps moving it from 10 to 12 business days, which would require a statutory change); however, since the change would only affect workers not informed of the TNC by their employers and since past evaluations show that most workers who successfully contest TNCs do so in well under the 10 Federal workdays, this adjustment is probably not necessary for the pilot test. The evaluation of the pilot program needs to determine the effect of the additional notification on accuracy rates and explore whether employers decide that they do not need to notify the worker because the Federal government is doing so.

- **Expand outreach and training of employers on the importance of informing workers of TNCs.** USCIS is aware of the need to educate employers about their E-Verify responsibilities and has been expanding its efforts in these areas by revising the employer manuals, holding webinars, and other outreach efforts. These efforts should continue along with efforts by the monitoring and compliance units to identify possible employer noncompliance and to provide employers with targeted information about their responsibilities.

- **Continue to expand the work of the USCIS monitoring and compliance units to identify and take action against employers when it appears that they are willfully ignoring their**

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[83]The evaluation team has been informed that Federal databases often do not contain timely information for workers, making it unlikely that using Federal addresses would be effective. However, if the evaluation shows that Federal notification is effective in increasing E-Verify accuracy, using existing Federal data could be explored further.

**responsibility to inform workers of TNCs.** As has been noted in prior evaluation reports,[84] without monitoring and following up as needed on improper E-Verify and other employment procedures, there is little incentive for employers to follow those procedures that are contrary to what they perceive to be their own best interests.

### 3.2. Inaccurate Form I-9s

**A second source of employer-generated inaccuracies is employer data input errors due to poor form design, ambiguous handwriting, not understanding how to complete the Form I-9, and carelessness.** This challenge can be addressed by the following recommended actions:

- **Expand the current ongoing Form I-9 review by including an external forms design expert.** A forms design expert would be able to point out ways that the form and accompanying instructions could be revised to help minimize data input errors on the part of employers and workers.

- **Provide employers with a Federally designed electronic Form I-9 at no charge and encourage its use.** Electronic Form I-9s would reduce errors attributable to illegible or ambiguous handwriting and would provide an opportunity for review of the form for accuracy prior to submitting the information to E-Verify.

- **Improve the employer manual, tutorial, and other employer materials to assist in reducing the number of employer input errors.** In making revisions to employer outreach materials, it would be helpful to use the results of this report and of the monitoring and compliance units to target issues that contribute most to inaccurate Form I-9 data entry. For example, these materials should emphasize the importance of employer review to make sure the Form I-9 is legible and that information on documents matches Form I-9 information while the worker is still available to clarify ambiguous information.

USCIS reports it is working on plans for program changes such as these.

### 3.3. Reviews of Names

**A third source of inaccuracies attributable primarily to employers is an inadequate review of differences between names on the Form I-9 and names returned by E-Verify.** The FNC accuracy rate for the employer name review is relatively low and, furthermore, it appears that many employers do not compare names returned by E-Verify with the Form I-9 information. This potentially results in the continued employment of unauthorized workers. To address this issue, the following is recommended:

- **Implement a more stringent USCIS name-match algorithm and eliminate employers' comparison of names input and returned by E-Verify.** Employers reasonably assume that when they receive an employment-authorized finding, the E-Verify process has compared and confirmed a match of I-9 information with Federal databases. The requirement for employers to compare the Form I-9 name with the name returned by E-Verify is neither accurate nor consistently applied. This is not surprising. Furthermore, it does not seem appropriate to ask employers to perform a task that should be an integral part of the Federal verification process. It should be replaced with a more adequate automated check of information.

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[84] See Westat, *Findings of The E-Verify® Program Evaluation*, December 2009, (http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=3a351e56d3856210VgnVCM100000082ca60aRCRD&vgnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD).

## 4. FEDERAL GOVERNMENT

### 4.1. Database Accuracy

**Since E-Verify relies upon a comparison of information from the Form I-9 and information on Federal databases, database accuracy is clearly key to the overall accuracy of E-Verify.** The analyses in this report indicate that the cases with relatively low FNC accuracy rates (referred to as Tier 1 cases) are responsible collectively for an estimated 79 percent of FNCs issued to employment-authorized workers because:

- Information on the citizenship status of foreign-born citizens is often not available in either SSA's Numerical Index File (Numident) database or in USCIS databases for naturalized citizens;

- SSA and USCIS databases do not consistently have timely information about name changes; and

- USCIS information on nonimmigrants is often not entered into Department of Homeland Security (DHS) databases in a timely fashion.

In addition to considering general changes to increase database accuracy, special attention should be given to E-Verify modifications designed to increase accuracy of the Tier 1 cases.

### 4.1.1. General Recommendations

- **Federal agencies with immigration responsibilities, particularly USCIS and Customs and Border Protection (CBP), should review and revise their forms and related instructions with assistance from an external expert in form design to decrease the chances of data entry errors.** Form redesign should, for example, include ensuring that there is adequate space to provide information on the form and that the instructions cover situations likely to be encountered, such as how to enter information for workers having only one name. Greater standardization in how names and dates of birth and identification numbers are requested on Federal forms would help reduce TNCs and FNCs to authorized workers and reduce confusion for workers, employers, and the agencies themselves.

- **Complete the ongoing USCIS transformation project expeditiously to improve the completeness, timeliness, and accuracy of DHS data used in E-Verify.** DHS has been working on the transformation project or one of its predecessor efforts for at least 10 years, but to date little has been implemented that is helpful to E-Verify. This effort will only be successful for verification purposes if the importance of high-quality data is recognized and given priority in system design.

- **Find and implement additional ways of data sharing between agencies to improve the accuracy of all the databases used in E-Verify.** For example, when SSA verifies that a noncitizen has changed or corrected biographic information, the new name should automatically be forwarded to USCIS and incorporated into the relevant USCIS databases. USCIS should provide SSA with updated information on immigration and citizenship status to update SSA's Numident records. Similarly, the Passport Office and USCIS should explore ways for the Passport Office to provide updated citizenship information to USCIS from derivative citizens' first applications for U.S. passports.

- **USCIS should not charge fees to noncitizens who wish to correct information on DHS databases used in the E-Verify match [85] because the current high fees discourage reporting changes and obtaining new documents, resulting in uncorrected information and unnecessary TNCs.** Charging high fees to change biographic information on DHS databases and obtain corrected documents is a major disincentive for noncitizens to provide updated information to DHS. To eliminate these charges, USCIS will either need to spread the cost of making biographic changes across other fees or Congress must approve appropriated funding for this purpose.

### 4.1.2.   Database Accuracy for Foreign-Born U.S. Citizens

**Numident and the DHS databases checked by E-Verify cannot confirm the employment-authorization status of a relatively large number of foreign-born workers.** Most USCIS naturalization data before the mid-1990s are still not reflected in USCIS systems. Data are also frequently not available for workers who derived U.S. citizenship status, usually as children when one or both parents naturalized.

**The recent addition of passport data to the E-Verify check should have a modest effect in reducing inaccurate findings for foreign-born U.S. citizens.** Since most foreign-born citizens do not use U.S. passports in the verification process, the effectiveness of checking U.S. passport data will likely only result in a modest increase in E-Verify's ability to identify foreign-born citizens.

The accuracy of E-Verify findings for foreign-born U.S. citizens could be improved by implementing the following recommendations:

- **When U.S. citizenship status cannot be confirmed by either SSA or USCIS but USCIS records show that the workers have permanent employment-authorization status, find the cases employment authorized automatically.** E-Verify finds workers attesting to U.S. citizenship to be employment authorized if SSA's automated review procedures show that the worker has permanent employment-authorization status (e.g., permanent residents, refugees, and asylees). However, only USCIS data for naturalized citizens are currently checked for workers attesting to being citizens when their cases are sent to USCIS. There would be a reduction in the number of foreign-born citizens receiving TNCs if workers attesting to being U.S. citizens were considered employment authorized when the USCIS databases indicate that they are permanent residents.

- **Conduct a pilot study in which workers attesting to be U.S. citizens would be permitted to provide U.S. passport and/or former A-numbers to assist in locating their records on DHS databases.** When workers attesting to be citizens are not instantly verified, employers should provide them the opportunity to provide their U.S. passport and/or former A-number before a TNC is issued. Passport numbers would permit checking U.S. passport records, and obtaining former A-numbers would facilitate searching USCIS's databases.

### 4.1.3.   Accuracy of Name Matching

**Most SSA name mismatches that result in issuance of FNCs to employment-authorized workers are for cases in which workers have changed their names without informing SSA.** Although this is less

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[85]Eliminating these fees would also assist matches in the Systematic Alien Verification for Entitlements (SAVE) Program and national security initiatives.

likely to occur in conducting USCIS name checks, name changes also play a significant role in the USCIS name-matching process.

To reduce the number of name mismatches leading to issuance of FNCs to employment-authorized workers, the following is recommended:

- **Modify the Form I-9 and E-Verify to obtain "other names ever used" instead of maiden name.** Modifying the Form I-9 through a regulatory change and E-Verify to collect and data-enter "other names used" instead of restricting it to maiden names would make it more likely to find a match with SSA and DHS databases that may have former names. This is especially likely to be the case for SSA, which allowed use of alternate names or nicknames on SSA records until relatively recently.

- **Require workers to use their legal names in completing the Form I-9.** This modification could be made either to the Form I-9 instructions or in the form itself as part of the Form I-9 redesign project. USCIS reports it is already advising workers on the Internet to use their legal name and will issue this same advice in writing later in 2011.

- **Modify SSA name-matching algorithms to increase the likelihood that employment-authorized workers with name changes can be found employment authorized without receiving TNCs.** Revising the SSA algorithm to make it less stringent could result in avoiding a substantial number of employment-authorized workers receiving TNCs. One possibility for doing this is matching on first name and date of birth only.

- **Make SSA and USCIS algorithms more similar to avoid situations in which a name match might be adequate for SSA purposes but not for USCIS, or vice versa.** Although the USCIS name-matching algorithm is quite lenient compared to the SSA algorithms, some workers who were considered to have SSA name matches received a USCIS name mismatch even if the information on the DHS database was the same as that on Numident. Not only does this lead to inaccurate automated findings for some noncitizens, it places noncitizens more at risk of failing the name match than citizens.

### 4.1.4.  E-Verify I-94 Number Not Located

**The primary reason for I-94 numbers not being found appears to be the time lag between nonimmigrants entering the country and the availability of their Form I-94 information in DHS systems.** To improve accuracy related to I-94 information that cannot be located, the evaluation team makes the following recommendations:

- **Automatically check whether document numbers listed as I-94 numbers are, in fact, A-numbers when the I-94 number cannot be located and the I-94 number has two leading or trailing zeros.** MPAs reported that it is not unusual for them to be able to clear cases in which it appears that the employer has input A-numbers into I-94 fields.

- **Use the Arrival/Departure Information System (ADIS) data from the DHS US-VISIT Program to identify recent arrivals.** Based on information from CBP, this database would be a good source of information for verification of recent noncitizen arrivals.

- **Issue a "provisional authorization" finding to workers whose I-94 records cannot be located.** Given the high probability that I-94 numbers that cannot be located are for workers who recently

entered the country and whose data are not yet available in DHS databases, it would make sense to give these cases a "provisional authorization" and then automatically recheck at a later time and issue a TNC at that point if the I-94 number cannot be located. As timeliness in entering I-94 records improves, the time of the provisional authorization should be shortened. Once data are available quickly, the provisional authorization should be eliminated.

## 4.2.   Other Recommendations to Improve the Accuracy of Automated Reviews

The preceding section focused on the data accuracy, timeliness, and completeness of the individual databases used in E-Verify. This section discusses additional challenges facing E-Verify accuracy. The following are recommended:

- **To the extent feasible, use the SSN or an alternate number as a common numerical identifier for accessing all of the databases with information about the workers' employment-authorization status.** If DHS and SSA consistently entered information on identifying numbers used by the other agency, it would make it easier to locate information about workers with records on multiple databases.

- **Add additional DHS databases to the automated E-Verify check for noncitizens.** When there is a biographic mismatch or inability to confirm employment authorization on the basis of the first DHS record located, there should be an automated check of additional DHS databases to determine whether additional information on alternate data sources can be used to find a worker employment authorized during the automated check.

- **Review SSA and USCIS decision rules in light of the detailed findings of this report and additional research to see if they should be revised.** The report has pointed to a number of places that algorithms and other decision rules appear to be suboptimal; however, data limitations have precluded examining the reasonableness of all the rules used. It is hoped that examination of additional information would lead to continued improvements to the automated process.

- **Implement a finding of employment authorized to students, exchange visitors, and nonimmigrant workers only authorized to work for specific employers; employers would need to confirm that they are authorized to hire these workers.** Currently, all student and exchange visitor cases and some nonimmigrant workers entering the country to work for specific employers are referred for second-level reviews so that MPAs can determine whether they are employment authorized. On the other hand, most nonimmigrant workers who are only authorized to work for specific employers are automatically found to be employment authorized. These verification criteria result in very low accuracy rates for students and exchange visitors and may authorize some workers who are not complying with their nonimmigrant worker status. Since the databases used in E-Verify often do not allow accurate verification of whether workers are meeting the conditions of their employment authorization, it is recommended that E-Verify find these cases to be conditionally employment authorized. Employers would be responsible for confirming that they are authorized to hire these workers based on prior petitions or program rules and noting the petition number or other information on the E-Verify record.

## 4.3.   Second- and Third-Level Reviews

**The major challenge facing SSA review of TNC cases is ensuring that all relevant information about cases is entered into EV-STAR and Numident expeditiously.** SSA put modifications in place in

April 2011 to make it easier for SSA Service Representatives to identify E-Verify cases, which will be helpful when workers visiting SSA do not tell the Service Representative that they are coming in to resolve an E-Verify TNC. This was not done in time for this study to evaluate its effectiveness.

**The evaluation team was unable to identify a single major challenge facing USCIS second- and third-level reviews.** Recommendations to address challenges that arise during the Federal review of cases that are not automatically found employment authorized are as follows:

- **Include all unresolved cases receiving TNCs in the pre-FNC check at the end of the tenth day following referral.** Since employers do not always input a referral date, which normally starts the SSA TNC process, and SSA Service Representatives do not always update E-Verify cases they resolve into EV-STAR, some cases resolved by SSA may not appear in EV-STAR at the time that the pre-FNC check is run. Including all SSA TNC cases, other than those recorded as resolved or in process by Service Representatives, would ensure that fewer cases fall through the cracks. Unresolved USCIS TNC cases should also be resubmitted, since it is possible that new data would be available on DHS databases between the original case submission and the pre-FNC check on the tenth day.

- **Make the standard operating procedures (SOP) used by MPAs in determining whether a worker is employment authorized and the algorithms used in the automated match more consistent.** USCIS should consider whether particular rules are too lenient in the automated match as well as whether they are too stringent in the MPA's SOP.

- **Do not give TNCs to workers who have successfully contested prior TNCs for the same problem.** Workers should be considered employment authorized if they receive additional TNCs for the same reasons (according to information on the E-Verify database) and had previously successfully contested them. For example, if a worker had successfully contested a USCIS name mismatch and receives another name mismatch, the worker should be considered employment authorized, assuming that the worker's record shows that the worker is employment authorized.

- **Ensure that the Department of State and DHS create unique codes within all nonimmigrant categories to differentiate between employment-authorized nonimmigrants and their spouses and children who may not be employment authorized.** Currently, some nonimmigrant statuses do not clearly differentiate workers with employment-authorized status from their spouses and children who may not be employment authorized.[86] This creates problems for E-Verify cases because it is impossible to know whether workers in these ambiguous statuses are employment-authorized principals or non-employment-authorized spouses or children.

- **Give MPAs more training and, concomitantly, more authority in completing cases.** As the E-Verify Program expands and the number of second- and third-level reviews grows, it will be increasingly important that MPAs constitute a well-trained and efficient workforce. USCIS has already taken steps to improve the MPA position by creating two dedicated offices for handling E-Verify cases and improving training and resources. However, a more in-depth training program— developed in conjunction with feedback from new MPA trainees—to ensure that they have the body of knowledge they need to more efficiently resolve cases would be useful.

- **Review SSA E-Verify training procedures since Service Representatives were not always satisfied with their E-Verify training**. SSA has expanded the amount of E-Verify training Service

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[86]Examples of such codes are the E-1, E-2, E-3, and I categories.

Representatives receive, but since some Service Representatives see E-Verify cases infrequently they do not always retain information that they have not recently used. It would make sense for SSA to obtain feedback from Service Representative trainees and use that to modify its E-Verify training.

- **When implementing the above recommendations, take special care with how to handle names for workers having only one name or having names containing punctuation or suffixes.** The erroneous TNC rates for workers with one name or with names containing punctuation or suffixes are relatively high and also contribute substantially to the erroneous TNC gap between citizens and noncitizens. Special consideration of these names would be appropriate in designing forms and instructions, revising name-matching algorithms, and revising employer materials.

## 5. FUTURE RESEARCH

**The evaluation team believes that the following research recommendations should be given priority in attempts to improve the accuracy of E-Verify:**

- **Pilot test and evaluate less tolerant matching criteria.** This report has examined the impacts on accuracy rates of making matching criteria *more tolerant* when a high percentage of TNCs in a particular noncitizen category are successfully contested. However, the evaluation was unable to examine the impacts on accuracy rates of making matching criteria *less tolerant* when a low percentage of TNCs in a category of interest are successfully contested. To determine the impact of making criteria less tolerant requires issuing TNCs based on the less tolerant criteria and then determining how many of these workers successfully contest the resulting TNCs. This could be done through a pilot test that would give USCIS and SSA important insights on whether changing criteria would make it more likely that unauthorized workers can be identified without having an unduly large impact on employment-authorized workers. If major changes are implemented based on this report or other considerations, evaluation of the changes is needed.

- **Conduct a study to determine the likely level of identity fraud among workers using different identity documents in the E-Verify process.** Federal decisions about acceptable documents for use in E-Verify needs to be informed both by the likelihood of identity fraud associated with use of these documents and the burden on employment-authorized workers of obtaining these documents. Examination of transaction data, record reviews, and employer and worker interviews could provide insights into this. Part of this study should include an examination of whether failure to use secure identity documents indicates identity fraud when Federal records show that the workers have such documents.

- **Evaluate the results from the E-Verify Self Check service implemented in March 2011 to determine its effectiveness in improving E-Verify accuracy.** The E-Verify Self Check service has the potential to significantly improve the accuracy of E-Verify for employment-authorized workers by permitting them to find out if their information on SSA and DHS databases is accurate before applying for employment at an E-Verify employer. However, like any large-scale program change, it needs to be evaluated to determine its cost-effectiveness.

- **Continue evaluating E-Verify periodically while E-Verify continues to evolve.** Among other things, these evaluations should look specifically at trends in how the accuracy of verifications has changed based on implementation of this report's recommendations or on any other significant program changes.

# GLOSSARY

**Alien.** Any person who is not a citizen or a national of the United States. Because some people find the term objectionable, it is not generally used in this report.

**Alien number (A-number).** A unique identification number DHS assigns to aliens (noncitizens) when any one of several DHS actions occurs that results in the creation of a file on or issuance of secure documentation for the person. Such actions include admission as a permanent resident, asylee, or refugee and issuance of an Employment Authorization Document (EAD).

**Authorized worker.** An individual who is allowed to work legally in the United States. (Also see employment authorized.)

**Automated Review.** In the E-Verify process, the checking of databases to determine work authorization that is completed without human intervention.

**Automatically.** In this report, the term is used to describe processes that are completed without human intervention. It is sometimes used elsewhere to mean authorized after a Management Program Assistant's (MPA) review without issuing a Tentative Nonconfirmation (TNC). (Also see automated review.)

**Basic Pilot Program.** The first of three pilot projects for employment verification mandated by Congress in the Illegal Immigration Reform and Immigrant Responsibility Act of 1996. The Basic Pilot Program is now referred to as E-Verify.

**Biometrics.** Biological identifiers such as fingerprints and retinal scans that can be used to establish identity with a high degree of certainty.

**Case.** A case consists of one or more Transaction Database records associated with a specific employer and worker for a particular hiring event.

**Case characteristics.** Cases classified by the reason they were not automatically found to be employment authorized.

**Case resolution.** Determination of the final case outcome (instantly work authorized, received a Final Nonconfirmation from SSA, etc.).

**Central Index System (CIS).** The USCIS CIS is a searchable mainframe database containing over 60 million records, primarily on noncitizens.

**Citizen.** A person owing loyalty to and entitled to the protection of a particular nation state, usually by virtue of birth or naturalization. Generally used in the report to mean a U.S. citizen.

**Contest.** The option available to workers receiving Tentative Nonconfirmations (TNCs) who disagree with the finding to contact SSA or USCIS to resolve the problem in their records that led to the TNC.

**Data entry error.** An entry incorrectly keyed into a database.

**Database.** An electronic catalogue of information. (Also see Verification Information System.)

**Discrimination.** Adverse treatment of individuals based on group identity. In employment situations, discrimination is defined as differential treatment based on individual characteristics, such as race or gender, that are unrelated to productivity or performance. Discrimination is not necessarily intentional. (Also see unintentional discrimination.)

**Employment authorized.** The designation that a worker is authorized to work in the United States. Persons authorized to work include U.S. citizens and nationals and noncitizens in various employment-authorized statuses. (Also see authorized worker.)

**Employment verification.** Process of verifying authorization to work in the United States.

**Erroneous Tentative Nonconfirmation rate.** The percentage of workers found to be employment authorized at any point in the verification process who received a Tentative Nonconfirmation (TNC) prior to receiving an employment-authorized finding.

**E-Verify.** E-Verify is the name currently used in referring to the Basic Pilot Program initially authorized in 1996. The Program electronically verifies the employment-authorization status of newly hired workers based on Form I-9 information input by employers.

**E-Verify users.** Employers that are actually using the E-Verify system.

**EV-STAR (E-Verify SSA Tentative Nonconfirmation Automated Response System).** Implemented in October 2007, an automated tracking process for referring and contesting Tentative Nonconfirmations (TNCs) at SSA to more closely mirror the USCIS TNC tracking process.

**Final Nonconfirmation (FNC).** A result on the Transaction Database indicating the worker's employment authorization was not established because the worker or the employer did not take the necessary action to resolve a Tentative Nonconfirmation (TNC) or the worker contested the TNC but work authorization could not be established. This result is only issued by the E-Verify system after the employer has been notified of a TNC response and the 10-workday period the worker has for contesting the finding has elapsed. It is also possible for a worker to unsuccessfully contest a finding and be found to be unauthorized by USCIS. This happens infrequently and this report generally includes these cases in the FNC category.

**FNC accuracy rate.** The percentage of workers receiving FNCs who are estimated to be unauthorized workers, i.e., the number of unauthorized workers divided by the number of unauthorized workers plus the number of employment-authorized workers receiving FNCs.

**Foreign born.** An individual who was born outside of the United States. American citizens can be foreign born, either because they were born abroad to at least one U.S. citizen parent or because they were naturalized or derived U.S. citizenship through their parents.

**Form I-9.** The USCIS form employers must use to verify the identity and employment-authorization status of all newly hired workers in the United States. The form was developed following passage of the Immigration Reform and Control Act of 1986.

**Fraudulent documents.** Identity and/or employment-authorization documents that are counterfeit or are legitimate but have been altered to change the identifying information or images to represent another person.

**Gap between [group1] and [group 2].** The difference between group 1 and group 2 on the variable of interest.

**Illegal alien.** A noncitizen who has not been lawfully admitted to the United States or who has, after a lawful admission, violated the terms of his/her lawful admission, usually by working or staying longer than authorized. (Also see undocumented immigrant.)

**Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA).** A major immigration law enacted on September 30, 1996. Among other things, IIRIRA mandated that the then Immigration and Naturalization Service (INS) conduct and evaluate three pilot electronic employment verification programs, including the Basic Pilot Program now called E-Verify.

**Immigrant.** A noncitizen other than a nonimmigrant. This term is often used to refer specifically to noncitizens who have been granted lawful permanent residence in the United States. These immigrants either obtain immigrant visas at consular offices overseas and are admitted as lawful permanent residents at a U.S. port of entry or have their status adjusted to lawful permanent resident by USCIS in the United States. (Also see lawful permanent resident and nonimmigrant.)

**Immigration Status Code.** This is a coding system that indicates current immigration status. These codes are also referred to as Class of Admission Codes (COA).

**Inaccuracy rate for authorized workers.** The percentage of cases for workers with employment authorization who are not correctly found to be employment authorized. This rate can refer to either the initial inaccuracy rate based on the employment-authorization finding of the system prior to the case being contested or to the final inaccuracy rate calculated after any contesting is completed. If not otherwise specified, the rates in this report refer to the final rates. This is often referred to as an error rate in research literature.

**Inaccuracy rate for unauthorized workers.** The percentage of workers without employment authorization who were incorrectly found to be employment authorized. This is often referred to as an error rate in research literature.

**Inadvertent discrimination.** See unintentional discrimination.

**Indicator.** An indirect measure of a variable of interest used when a more direct measure is unavailable.

**Instantly verified.** This report uses this term to indicate that the worker is verified almost immediately as work authorized based on the automatic E-Verify checks without the need for human intervention.

**Lawful permanent resident (LPR).** A noncitizen who has been admitted as a legal permanent resident of the United States. A "green card" holder. (Also see immigrant.)

**Management Program Assistants (MPAs).** The group of USCIS field office staff who verify immigration status for benefit and licensing agencies and E-Verify employers. One of their functions is to verify the status of individuals receiving a Tentative Nonconfirmation from USCIS. They were formerly called Immigration Status Verifiers (ISVs).

**Measurement error.** Error in statistical estimates attributable to imperfections in the way that variables of interest are measured. Measurement error includes a number of more specific types of errors such as recall bias. (See also sampling error and recall bias.)

**Memorandum of Understanding (MOU).** A signed document in which an employer choosing to participate in E-Verify agrees to abide by the provisions of E-Verify and that specifies USCIS and SSA's provision of certain materials and services.

**New hire.** According to USCIS, for E-Verify purposes a new hire is a person who has been offered and accepted a job offer.

**Nonimmigrant.** A noncitizen admitted to the United States with a nonimmigrant visa or under the nonimmigrant visa waiver program for a specified temporary purpose and time period. Common examples are tourists, students, temporary workers, and foreign government officials.

**Notice of Tentative Nonconfirmation.** The printed form an employer provides notifying a worker that a Tentative Nonconfirmation (TNC) has been issued by the verification system and informing the worker of his/her rights and responsibilities with respect to resolving the TNC. The worker must sign the form, indicating whether he/she wishes to contest the finding.

**Numerical Identification File (Numident).** The SSA database containing information on all persons issued Social Security numbers (SSNs). E-Verify automatically checks the Numident database to confirm the accuracy of the worker's reported SSN, name, date of birth, and, in some cases, citizenship status.

**Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC).** An office established in the U.S. Department of Justice by the Immigration Reform and Control Act of 1986 to provide remedies for immigration-related discrimination related to employer sanctions and employment verification. The office provides a mechanism for dealing with discriminatory employment practices, including hiring and discharge from employment based on citizenship status or national origin.

**Photo Matching (Photo Tool).** Photo Matching permits employers to compare photographs on employee documents with digital photographs stored in government systems to detect existing valid documents that have a new photograph substituted on the original document or that are counterfeit documents created with valid information but a new photograph. The only documents currently available for Photo Matching are Permanent Resident Cards ("green cards"), Employment Authorization Documents (EADs), and U.S. passports.

**Pre-FNC check.** Tentative Nonconfirmation (TNC) cases referred by employers when workers say that they wish to contest TNCs are subject to a final automated E-Verify check before a Final Nonconfirmation (FNC) is issued unless there is a record in SSA's EV-STAR database indicating that the case has been found work authorized by SSA or is being processed by SSA. This automated check is referred to as the pre-FNC check in this report but is sometimes referred to informally as the 11th hour check. This procedure avoids FNCs that would previously have occurred if employers failed to correctly resubmit cases after workers had visited SSA to resolve their TNCs. (Also see EV-STAR.)

**Pre-TNC checks.** SSA pre-Tentative Nonconfirmation (pre-TNC) and USCIS pre-TNC checks that were implemented in September 2007. For SSA, this process consists of asking employers to review their input and correct any detected errors prior to the issuance of a TNC. For USCIS, employers are asked to review their input prior to the case going to the second-level verification process in which Management Program Assistants manually check additional DHS databases when the initial automated review does not confirm that the employee is work authorized.

**Query.** The action of keying information and accessing the verification database to verify employment eligibility. A single employment case may involve multiple queries. (Also see case.)

**Recall bias.** Inaccuracies in data introduced by difficulties respondents may have in remembering events accurately.

**Referral letter.** The official notice an employer provides to a worker who wishes to contest a Tentative Nonconfirmation (TNC) finding in the verification process. It explains what procedures the worker should follow to resolve the TNC.

**Sampling error.** Potential errors in statistical estimates attributable to estimates being based on a sample of cases from a larger population. (See also measurement error.)

**Second-level review.** The step in the E-Verify process for noncitizens consisting of a USCIS review of a noncitizen case that was not found work authorized automatically. The Management Program Assistant checks to determine if supplemental information available permits finding the case work authorized. The employer is then informed electronically in E-Verify that the case is employment authorized or that a TNC is being issued.

**Secure documents.** Documents that have special security features such as bar codes, holograms, embedded images, biometric identifiers, laminates, or other features that make them difficult to counterfeit or alter. Such documents are typically issued through processes that are also secure.

**Social Security Service Representative.** Service representatives provide assistance by answering a wide variety of questions by interviewing the individual, investigating the situation, and resolving the problem. This includes assistance to employees with TNC notices.

**Stakeholders.** Individuals and organizations with an interest in a program or issue.

**Standard error.** This is a measure of the potential error attributable to the fact that statistical estimates are based on a sample.

**Tentative Nonconfirmation (TNC) (of work authorization).** The initial response from E-Verify when a worker's employment authorization cannot be immediately confirmed. There are many possible reasons that a worker may receive a TNC, ranging from employer-keying errors to a worker's lack of employment authorization.

**Tier 1 Cases.** In this report, Tier 1 refers to cases in categories that explain a relatively high percentage of FNCs issued to employment-authorized workers.

**Tier 2 Cases.** In this report, these are cases that do not meet the Tier 1 criterion but have relatively low FNC accuracy rates (defined for purposes of these analyses as accuracy rates below 85 percent).

**Tier 3 Cases.** In this report, these cases compose the residual category containing those reasons that did not meet either the Tier 1 or the Tier 2 criteria. Basic information is presented about these cases since there may be interest in addressing some of these types of cases, using criteria that differ from those used in this report.

**Transaction Database.** The administrative database that captures all E-Verify transactions by employers, SSA, and USCIS.

**U.S. citizen.** An individual who is born in the United States or attains U.S. citizenship by being born abroad to at least one U.S. citizen parent, by being naturalized, or by deriving citizenship following

his/her parents' naturalization. References to U.S. citizens in this report include noncitizen U.S. nationals (American Samoans).

**Unauthorized employment.** Employment of workers without work authorization. (Also see unauthorized worker.)

**Unauthorized finding.** An E-Verify finding that is issued by USCIS for workers that contest Tentative Nonconfirmations and are found to be not authorized to work in the United States.

**Unauthorized worker.** A noncitizen who does not have legal permission to work in the United States because of his/her immigration status or because he/she has applied and been found ineligible for work authorization. This category includes unauthorized workers who are in the country legally (e.g., visitors) but do not have authorization to work in the United States. (Also see undocumented immigrant.)

**Undocumented immigrant.** A noncitizen who does not have permission to enter or reside in the United States. (Also see illegal alien.)

**Unintentional discrimination.** Discrimination against a protected group that occurs as a result of someone's actions without an intent to discriminate. For example, since foreign-born workers with employment authorization are more likely to receive erroneous Tentative Nonconfirmations (TNCs) than U.S.-born workers, adverse actions of an employer, such as refusing to employ workers receiving TNCs, disproportionately hurts foreign-born workers and is considered unintentional discrimination.

**Verification.** A process by which a case is entered into E-Verify for determination of work-authorization status.

**Verification Information System (VIS).** The USCIS information system used by the E-Verify Program, which includes data from primary DHS databases with new information on noncitizen status.

**Verification Number.** The Verification Number is a unique number generated automatically by E-Verify when a case is first entered into E-Verify; it is used to identify the case in any future actions.

**Verification transaction record.** A record in the E-Verify Transaction Database capturing employer-entered information to determine a worker's employment authorization.

**Work-authorization model.** A model formulated to estimate the true work status of groups of workers with specified interim or final case findings.

# APPENDIX A
# THE SOURCE AND ACCURACY OF FEDERAL DATA
# USED TO CONFIRM E-VERIFY CASES

## 1. INTRODUCTION

The purpose of this appendix is to provide more detailed background information than in the report itself on the accuracy, timeliness, and completeness of the Federal information used in the E-Verify verification process. To do this, it examines how data are initially collected, including the forms used in data collection; how data are input into Federal computer systems; and the procedures for correcting or updating data in the Federal systems.

This appendix discusses the Employment Eligibility Verification Form I-9 which contains the workers' information submitted to E-Verify and describes the Federal data which are compared with I-9 information. It starts with a discussion of information used in verifying the employment eligibility of all workers (Social Security numbers (SSNs)) and then discusses available data for U.S. citizens, and for the two major categories of noncitizens who are authorized to work in the United States: permanent residents and certain categories of nonimmigrants. These descriptions include information on how biographic information (primarily name) is obtained on forms and processed, including processing delays, systems used, how changes and corrections are made, and any relevant comments related to their use in E-Verify.

## 2. ALL U.S. WORKERS

### 2.1. Introduction

There are two forms relevant to all U.S. workers that are discussed in this section. First, there is the Form I-9 that all U.S. workers and their employers are required to complete when an employer initially hires workers. The second is the SSN Application, Form SS-5 that all persons, citizen and noncitizen alike, must complete in order to obtain an SSN to work in the United States.

### 2.2. Employment Eligibility Verification, Form I-9

#### 2.2.1. Form

Employment Eligibility Verification, Form I-9, provides the information on the worker that E-Verify checks against data contained in Federal databases. Therefore, it is important that the I-9 contain information that is clearly presented and likely to be compatible with the Federal data against which it will be checked. If information on the Form I-9 is not clear and accurate it is unlikely that employers can accurately input it into E-Verify and get a successful match with Federal data.

#### 2.2.2. Process

Unlike most Federal forms, the Form I-9 is retained in employer records and not submitted to any government agency. It was originally designed after implementation of employer sanctions legislation in 1986 making it unlawful to knowingly hire or continue to employ unauthorized workers. The I-9 was intended to provide evidence that an employer had taken due diligence in determining that a newly hired employee was authorized to work in the United States.

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Since the form was originally intended to be completed and filed in employer records it was not designed for data entry. It may, therefore, not be surprising that the I-9 contains no instructions separate from the form itself on how information is to be provided, such as guidance for writing very long, compound, or unusual names.[87] Workers typically handwrite their last and first names and middle initial in a single box at the top of the form. The space provided is not sufficiently large to handle legible writing of compound names, and because of the design, name segments may run together, making it difficult for employers entering the data into E-Verify to know when a last name ends and a first name begins. Additional instructions are included in the next release of the Form I-9 handbook. The I-9 includes a separate box for maiden name but does not request information on aliases or other names ever used. It further asks for date of birth in month/day/year format, which is ambiguous as to whether the month should be written as a word or a number, which may lead to errors in translating the data into E-Verify, which asks for date of birth in numerical format.

### 2.2.3. Changes and Corrections of Errors

The E-Verify process includes a pre-Tentative Nonconfirmation (TNC) check which allows employers to determine whether there are any data entry errors in the submission to E-Verify. When employers detect such errors, perhaps in consultation with the worker, the original case is considered an Invalid Query and a new case with the correct information is submitted.

### 2.2.4. Comments

The Form I-9 is currently undergoing review. As discussed in the body of the report, this provides an opportunity to revise the form, so that, while still working for non-E-Verify employers, it is better suited for use in the automated E-Verify process. One option might be to have a separate Form I-9 for use by E-Verify employers since their requirements are somewhat different by statute and could be more so if some of the recommendations in this report are implemented. This would be parallel to the separate Forms G-845, Verification Requests, for agencies mandated to participate in the Systematic Alien Verification for Entitlements Program (SAVE) and those that are not.

### 2.3. SSN Cards

### 2.3.1. Form

The SSN Application, Form SS-5, is a one-page form used for applying for an original SSN or making a change to record information, primarily when a name or citizenship or immigration status changes. All SSN applications are free of charge. The SS-5 asks for "Name to be Used on Card (first, full middle, and last)." There is also a space for "Full Name at Birth" if the current name is different than name at birth. There is also space for other names used previously on a Social Security Card. The Social Security Administration (SSA) now requires that a person's legal name be used in the Social Security record; however, until late 2005 SSA allowed SSN records and cards to be in any reasonable name requested by the holder, such as a nickname or middle name, making it likely that many persons have SSN cards with names other than their legal name.

### 2.3.2. Process

Most U.S. citizens are now enumerated at birth through the Enumeration at Birth program, an SSA program supported by participating State Bureaus of Vital Statistics and hospitals. Citizens not

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[87]USCIS is providing more instructions on the Internet and plans to issue more written guidance on names later in 2011.

enumerated at birth and all noncitizens must go in person to an SSA field office to apply for an SSN and submit evidence of name and proof of identity, date of birth, and evidence of U.S. citizenship or immigration status. Noncitizens must provide a current unexpired document issued by Department of Homeland Security (DHS) that shows immigration status and work authorization (unless the applicant can demonstrate a valid nonwork reason why he or she needs an SSN). SSA has required evidence of identity for all applicants and also maintained information on citizenship status of persons issued SSNs since 1978. Since 2002, immigration status has been verified through the USCIS SAVE Program[88] before a number is issued or a change in immigration or citizenship status is made in SSA records. Data entry into Numident is done by Service Representatives at SSA field offices. Current procedures include printing out the information that will be used for the record creation or update and showing it to the applicant for review and approval prior to submitting the data for SSN issuance and card production.

SSA issues three types of SSN cards: unrestricted cards, cards that are valid for employment only with a DHS Employment Authorization Document (EAD), and nonwork cards. The latter two types of cards are issued only to noncitizens; however, cards can be reissued with fewer restrictions when holders' immigration status changes.[89]

Cards for approved applications are produced centrally and generally issued within 2 weeks of application. However, many changes must be verified with the source that issued the documentation. This means that U.S. citizen information may need to be verified with state vital records offices, which is often done electronically. Although most SAVE referrals are verified immediately with USCIS this check may take up to two weeks and in a few cases much longer. SSA does not require that legal name change documents from courts and marriage certificates be verified.

### 2.3.3. System

SSA's centralized Numerical Index File, known as Numident, is used in enumeration for SSNs and issuance of SSN cards. Numident, created as an electronic system in the 1970s, contains information on about 465 million persons who have been issued SSNs since 1936, including their SSN, name, date of birth, and place of birth. Numident also includes fields for aliases a person has used, including a maiden name or other name used prior to another type of legal name change.

SSNs are unique identifiers and are only assigned once; they are not recycled after the holder is deceased. Efforts are made to assign only one SSN to an individual over a lifetime except in certain cases of identity theft or witness protection. There is only one Numident record for each assigned SSN.

Numident contains 15 characters each for first and middle name, 20 characters for last name, and 4 characters for suffix. Characters beyond these are truncated in Numident, and the overflow is designated with an asterisk (*). The SSN card, however, allows up to 26 characters on the first line for first name and middle name or initial and another 26 characters on the second line for last name and suffix. Single names are listed in the last name field. Special characters appearing in names such as spaces, hyphens, and apostrophes, are included on SSN cards.

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[88]The USCIS SAVE Program is similar to E-Verify in that it verifies immigration status for Federal, state, and local benefit and licensing agencies.

[89]The nonwork SSN card is only issued to noncitizens who need an SSN to receive public benefits. However, since most noncitizens who are not work authorized are also not eligible for most public benefits, these cards are issued infrequently. Noncitizens who are not work authorized but need a number for tax purposes can apply to IRS for an Individual Taxpayer Identification Number (ITIN), which can be used in lieu of an SSN for tax purposes.

## 2.3.4. Changes and Correction of Errors

When errors are made on SSN cards, the individual must complete another SS-5, indicate the mistake that was made, prove his or her identity, and provide legal documentation of the correct information as well as the old information. Changes to Numident, such as updates to a name or citizenship status, create a new entry in the Numident record but do not overwrite earlier Numident information. As a fraud-prevention effort, only three SSN cards may be issued to an individual in a given year and no more than 10 cards may be issued in a lifetime. Cards to show legal name changes or changes in type of SSN card do not count toward these limits.

## 2.3.5. Use in E-Verify

E-Verify checks SSA records based on SSN and related biographic information for all cases verified through E-Verify.

## 2.3.6. Comments

While the initial enumeration process has been found to be highly accurate in GAO and OIG reviews, unreported changes to name and citizenship status result in inaccuracies in some Numident records over time. Although SSA reports that it encourages updates to immigration or citizenship status, some reluctance to do so was observed during ongoing discussions between SSA and USCIS because this change requires additional workload for its field office staff and SSA does not view this as a part of its core mission until the person applies for Social Security benefits. However, SSA has more recently taken steps to encourage reporting of immigration and citizenship status changes along with legal name changes. These changes require an in-person visit by the number holder with official proof of the legal change to be made to the Numident record. SSA has also approved wording in USCIS materials given to new citizens to encourage them to visit SSA to update their citizenship status and any name changes made as a part of the naturalization process.

SSA has been criticized for not having current immigration and citizenship status, and therefore not having reliable data on the employment authorization status of noncitizens. However, because immigration status for some noncitizens changes several times over the course of their stay in the United States, it would be very difficult to keep SSA records correctly updated. To provide a reliable link between SSA and DHS records, use of a common numerical identifier would be required for both agencies. Although all SSA records include an SSN, a majority of DHS records do not.[90]

Delays in issuing original SSN cards to noncitizens due to unavailability of DHS data to verify against in SAVE verifications, may result in delays in the verification of noncitizen workers through E-Verify since an SSN is required to enter cases into E-Verify. This delay may create uncertainty among employers about the employment-authorization status of these workers and result in prohibited practices such as delayed training or reduced pay as if they had received TNCs.

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[90]Since many noncitizens in the United States do not have work authorization, the SSN could not become the sole DHS numerical identifier.

# 3. U.S. CITIZENS

## 3.1. Introduction

Three documents issued to U.S. citizens which are used to document U.S. citizenship are discussed in this section. The first is the U.S. passport which can be issued to all U.S. citizens, whether native or foreign born. The second is a Certificate of Naturalization issued to naturalized citizens. The third document, the Certificate of Citizenship, is issued to derivative citizens if they apply for it. Neither the Certificate of Naturalization nor the Certificate of Citizenship can be used as proof of U.S. citizenship for I-9 purposes. However, data on naturalized citizens are input into USCIS databases used in E-Verify.

## 3.2. All U.S. Citizens—U.S. Passports

### 3.2.1. Forms

Applications for U.S. passports are made using Department of State Form DS-11 for issuance of an original passport or DS-82 for a passport renewal. These forms can be completed manually or online. The adult application fee is $135 for a new passport and $110 for a renewal.[91] The DS-11 asks for last name in the top box and first and middle in a box below it. Another question asks if a different name has ever been used (maiden, previous marriage, legal name change) and leaves two spaces for entering such names; applicants are directed to attach additional pages with relevant information if necessary.

The Department of State Foreign Affairs Manual includes a detailed appendix of over 30 pages on names to be used in passports, including how to handle many forms of unusual names (such as names that are one word, hyphenated, or numbers); errors in names, names after marriage, divorce, or adoption; special instructions for Slavic, Asian, Arabic, and Hispanic names; and names that are too long for the passport data page. The name used on the passport is normally the name on the document that serves as evidence of citizenship and identity (and the one that best identifies the applicant) unless the name has been legally changed.

The name on the passport does not have to be identical to the identity document as long as the name refers reasonably to the same person – i.e., there could be initials versus spelled out names or shorter versions of a name. Additionally, an applicant can change the spelling of his or her name if it is pronounced the same (Smith and Smyth) or change the order of names (Samuel Thomas to Thomas Samuel). A person with multiple names may also drop a name on his or her passport. Further, a passport may be issued in a nickname as long as it is a common derivative of the given name (Bob for Robert.) A person may also translate a foreign name (Giuseppe to Joseph).

### 3.2.2. Process

First-time applicants and children under age 16 must apply for a passport in person before a designated court or post office official, at a domestic U.S. passport office, or at an overseas consular post. Renewals may be submitted by mail to a centralized facility. Applications are usually processed at one of three passport processing centers, and passports are produced at two passport production centers. Contract staff enter data passport information. Each passport is issued with a unique passport number.

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[91] A Passport Card can also be used for I-9 purposes. This card can be used only for land and sea travel between the United States and Mexico, Canada, Bermuda, and the Caribbean, costs $55 for first time holders or $30 for holders of a U.S. passport.

As of April 2011, the Passport Office advised it was taking 4 to 6 weeks to issue a passport. With expedited service, available for an additional $60, issuance was taking only 2 to 3 weeks.

### 3.2.3. System

U.S. passport data are processed in the Consular Affairs Passport Information Electronic Records System (PIERS).

### 3.2.4. Changes or Correction of Errors

The Passport Agency has extensive instructions for correcting errors or making changes to update information in a U.S. passport. Changes and corrections are requested using Form DS-5504. Printing errors can be corrected free of charge at any time while the passport is valid. Name changes are also free of charge for the first year in which the passport is valid. After one year, changes must be requested on Form DS-82 by renewing the passport and paying the full passport renewal fee.

### 3.2.5. Use in E-Verify

Passport data accessed through Customs and Border Protection 's (CBP) access to the Department of State's Consular Consolidated Database (CCD) have been part of the automated E-Verify check since 2009 for persons presenting U.S. passports as proof of identity and employment authorization in the I-9 verification process.

### 3.2.6. Comments

Use of variants of given names, including different spellings, use of middle names or nicknames, reversed names, or translated names, may affect the likelihood of a mismatch with I-9 data in E-Verify. If the worker uses his or her legal name on the I-9 and an alternate name on the passport, the opportunity for mismatches will be increased.

The Department of State documents U.S. citizenship at the time of the first U.S. passport application for those persons who derive citizenship and do not have Certificates of Citizenship from USCIS. Acquiring a U.S. passport is both quicker and significantly cheaper than applying for a Certificate of Citizenship, and also provides documentation required for international travel. Therefore, the addition of Department of State passport data to E-Verify checks is likely to be helpful in reducing TNCs during the verification process. However, currently fewer than 10 percent of workers attesting to U.S. citizenship present a U.S. passport in the I-9 process, which reduces the effectiveness of this check.

### 3.3. Naturalized Citizens—Certificate of Naturalization

### 3.3.1. Form

Permanent residents who are at least 18 years of age and meet the qualifications for naturalization can apply to USCIS using a Form N-400. The application fee for the N-400s is $595 plus an $85 biometrics fee. The N-400 asks for "current legal name," including boxes for family name (last name), given name (first name), and full middle name (if applicable). It also asks for the same names exactly as they appear on the Permanent Resident Card. There is also a question asking for any other names ever used with separate boxes for family (last), given (first), and middle names, and space for three additional names. A fourth question asks if the applicant wants to legally change his or her name during the naturalization process. If yes, there are boxes for the new name, including family name (last name), given name (first

name), and full middle name. The N-400 also asks for USCIS A-number and SSN, although SSN has not always been a required data element.

### 3.3.2. Process

Since January 22, 2009,[92] most N-400s are sent to a USCIS Lockbox location for initial data entry and fee collection. Accuracy of scanned data input at the Lockbox is reviewed by contract staff for critical elements, which includes name and date of birth. Data fields that cannot be read during Lockbox data entry are sent to data correction where the case file is reviewed to determine the required accurate information. After the Lockbox processes are completed, the hard copy application is mailed to the USCIS National Benefits Center (NBC) where an application number is assigned and the application combined with the relevant A-file. This material is then sent to the appropriate field office for processing, interviewing, and bestowing U.S. citizenship either administratively by USCIS or by a court.

According to the USCIS website, the processing time for N-400s is 5 months in most offices, but a few offices are taking 7 months or more to complete naturalization cases.

### 3.3.3. System

Naturalization cases are processed in the centralized Computer-Linked Application Information Management System 4 (CLAIMS4),[93] a case tracking system that facilitates processing of applications for naturalization from the time of application through final decision making and acquisition of U.S. citizenship. CLAIMS4 citizenship data go back to the late 1990s and include former A-number and SSN; matches can also be made on the basis of name, date of birth, and nationality or place of birth. CLAIMS4 has a 66-character limit for name—18 each for first and middle name and 30 characters for last name. The system truncates any excess letters. Hyphens, other symbols, and punctuation are not allowed.

### 3.3.4. Use in E-Verify

CLAIMS4 information is checked in the E-Verify automated process.

### 3.3.5. Changes and Correction of Data

A naturalized citizen may apply to USCIS for a new Naturalization Certificate by filing Form N-565 with a $345 filing fee and submitting the original document and proof of the new name, such as a marriage certificate or court order. Two of the four USCIS Service Centers process these applications.

### 3.3.6. Comments

Use of CLAIMS4, the Redesigned Naturalization Automated Casework System (RNACS), a district-run local naturalization system, used prior to 1996, and the Central Index System (CIS) to verify that noncitizen workers have become U.S. citizens as reported on the Form I-9 when SSA data have not been updated to reflect this new status, has reduced issuance of TNCs to U.S. citizens. However, these systems

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[92]Prior to that time, they were sent to the four service centers for pre-processing before going to field offices. In the past, smaller offices used the Redesigned Naturalization Automated Casework System (RNACS) instead of CLAIMS4.

[93]Prior to implementation of CLAIMS4, RNACS, a district-run local naturalization system, was used to track naturalization applications from 1986 to 1996. RNACS data, like CLAIMS4, are automatically checked by E-Verify when a worker claiming to be a U.S. citizen on the Form I-9 does not appear as a U.S. citizen or have Numident information showing that the worker has permanent employment-authorization status. RNACS includes older naturalization data than CLAIMS4 and also includes data for some USCIS offices where CLAIMS4 was not initially implemented. It includes new citizens' former A-numbers but not their SSNs.

do not always include SSN, and A-number is not collected for persons attesting to U.S. citizenship on the Form I-9. These factors reduce the likelihood of a match. Additionally, these databases do not include data on persons who naturalized before the mid- 1990s or persons who derive U.S. citizenship.

## 3.4. Derivative U.S. Citizens—Certificate of Citizenship

### 3.4.1. Form

When one or more parents of permanent resident children under the age of 18 naturalize, their children normally derive U.S. citizenship. An application for a Certificate of Citizenship for these citizens can be made at any time on a USCIS Form N-600. The filing fee is $600.[94] Application for a Certificate of Citizenship also can be made by certain other persons alleging that they are U.S. citizens at birth abroad by virtue of their parentage, or by parents alleging that their adopted or other children automatically became U.S. citizens upon establishing residence as permanent residents in the United States.

### 3.4.2. Process

Applications for Certificates of Citizenship are sent to and processed manually in local USCIS field offices. According to the USCIS website, the processing time for N-600s is 5 months in most offices, but a few offices are taking 10 months to over one year.

### 3.4.3. Changes and Corrections of Data

A derivative citizen who has been issued a Certificate of Citizenship may apply to USCIS for a new Certificate of Citizenship by filing Form N-565 with a $345 filing fee and submitting the original document and proof of the new name, such as a marriage certificate or court order. Two of the four Service Centers process these applications.

### 3.4.4. System

Derivative citizenship information is not routinely entered into an automated system.

### 3.4.5. Use in E-Verify

Data are not readily available for use in E-Verify; these citizens may be verified through the passport check if their passport number is available.

### 3.4.6. Comments

Most persons who derive citizenship do not apply for Certificates of Citizenship, and when they do, cases are manually processed in local offices and the U.S. citizenship status is not normally entered into an automated system. In those cases the only record of issuance of the certificate is in the person's A-file, which requires a manual search during a second or third stage E-Verify review. There is no proof of U.S. citizenship in the A-files of persons not applying for a Certificate of Citizenship. In the case of an individual deriving citizenship through birth abroad to U.S. parents, if no application for a Certificate of Citizenship is made, USCIS will have no file on the individual and no record of the individual's citizenship.

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[94]The filing fee is $550 if the N-600 is filed on behalf of an adopted minor child.

Because of the lower cost and expediency, the Department of State documents U.S. citizenship at the time of the first U.S. passport application for a majority of persons who derived citizenship and does not request Certificates of Citizenship from USCIS.[95] Acquiring a U.S. passport is both quicker and significantly cheaper than applying for a Certificate of Citizenship; it also provides the documentation required for international travel. Therefore, the addition of Department of State passport data to E-Verify checks is likely to be helpful in reducing TNCs during the verification process. However, currently less than 10 percent of workers attesting to U.S. citizenship present a U.S. passport in the I-9 process, which reduces the effectiveness of this check.

## 4. PERMANENT RESIDENTS (IMMIGRANTS)—PERMANENT RESIDENT "GREEN" CARDS

### 4.1. Introduction

Although immigrants to the United States are normally thought of as coming from other countries with immigrant visas, a slight majority of new immigrants are in the United States in another lawful status[96] at the time they become permanent residents. USCIS rather than the Department of State processes adjustment of status cases using the same qualifying standards as Department of State. The final outcome of processing for both immigrants arriving with immigrant visas and those adjusting status is a Permanent Resident Card (Form I-551 or "green card").

This section provides an overview of how new immigrants and data on them are processed. Immigrants from outside the United States go through several steps of visa-related processing at Department of State consular posts and inspection by a CBP officer at a port of entry, with biographic data collected at both stages. Data sharing of basic biographic and case information on newly arriving immigrants has existed between DHS and Department of State for at least a decade to reduce duplicate data entry during the pre- and immediate post-immigration processes for this group. Following approval of adjustment of status at local USCIS offices, case processing for data entry and issuance of the Permanent Resident Card is very similar to that for new immigrant arrivals.

### 4.2. Forms

Form DC-230 Part 1, Application for Immigrant Visa and Alien Registration, is completed along with subsequent forms during the visa application process and payment of a fee ranging from $330 to $720 depending on the type of immigrant visa. The visa application form requests "Family Name, First Name, and Middle Name" on the same full line on the form and provides no instructions for how name is written. A second line asks for "Other Names Used or Aliases (If married woman, give married [SIC] name)." Ultimately, the name used on the final visa application must match the name in the foreign passport.

Applicants for adjustment of status to permanent residence apply to USCIS using a Form I-485, Application to Register Permanent Residence or Adjust Status, and pay a $985 filing fee plus an $85

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[95]Similarly, it is likely that most U.S. citizens who derived citizenship and received Certificates of Citizenship also apply for U.S. passports at some point.

[96]Noncitizens approved as refugees or asylees are admitted permanently but USCIS issues them time-limited, renewable employment-authorization documents (EADs) upon their application. After one year, refugees and asylees can apply to USCIS using Form I-485 to adjust their status to lawful permanent resident. Data on asylees are initially maintained in the USCIS Refugee, Asylum, and Parole System (RAPS), a case tracking system containing information on affirmative asylum applications submitted to USCIS asylum offices. It also includes referral of asylum cases to EOIR for consideration when USCIS asylum officers are not able to grant relief.

biometrics fee. The Form I-485, which asks for "Family Name (Last Name)," "Given Name (First Name)," and "Middle Initial," provides very short spaces for each name part and provides no additional instructions.

## 4.3.    Process

Processing of new immigrant visa applications is carried out largely at consular posts throughout the world and at the National Visa Center (NVC) in New Hampshire, which does case preprocessing of the visa application for most posts. When preprocessing, data entry of key information and assignment of the A-number[97] is completed at the NVC, the case is sent to the appropriate consular post for interview of the applicant. Upon approval, the post issues a machine readable immigrant visa (MRIV) and affixes it to the applicant's foreign passport. The prospective immigrant is given their Immigrant Visa Packet in a sealed envelope to turn over during the CBP port-of-entry inspection process to later be sent for inclusion in the paper A-file as a record of the immigration process. The prospective immigrant has six months to enter the United States once the MRIV has been issued.

When immigrants arrive at a U.S. port of entry they give the Immigrant Visa (IV) packet to the interviewing CBP officer who reviews the material, confirms the immigrant's identity, and annotates the MRIV contained in the new immigrant's foreign passport. The MRIV contains the statement "Upon endorsement serves as temporary I-551 evidencing permanent residence for 1 year." Once the inspecting officer has annotated the MRIV in the foreign passport with the stamp "Processed for I-551 temporary evidence of lawful admission for permanent residence valid until **(date)**. Employment authorized", the new immigrant may use the MRIV and passport as a travel document and documentation in the I-9 process for up to one year. For new immigrants requesting an SSN card during the visa application process, an electronic file will be sent to SSA for creation of SSN cards to be mailed to them without need to visit an SSA office.

The completed IV packet is then mailed to one of two USCIS contract data entry facilities at Service Centers, which typically takes a week but may take over 30 days from some ports. USCIS contract staff then create paper A-files with the IV packet information, using the A-number created by the Department of State,[98] and prepare the files for data entry. Files are usually data entered within a week of reaching the facility and within two days of reaching the data entry stage. During data entry, electronic Department of State data related to the immigrant visa is called up and updated with arrival data. This creates the local CLAIMS3 LAN record that is subsequently uploaded into Mainframe CLAIMS3 and the Central Index System (CIS). Data on new immigrants may be available in CIS as early as 10 days to two weeks of entry, but in some cases the delay is much longer. This process also initiates production of the Permanent Resident Card that will be centrally produced in Kentucky and sent to the new immigrant. USCIS guidelines require the legal name to be used on the Permanent Resident Card. A percentage of the files undergo one or both of the following quality control checks: contractor quality assurance review of staff work and USCIS quality control file review. USCIS does acceptance sampling on completed work, and the contractor is required to have at least 99 percent accuracy on critical data, which includes name, date of birth, and A-number.

Applicants for adjustment to permanent resident status send their Forms I-485 to a contract Lockbox location or one of the USCIS Service Centers where initial data entry occurs through contract support.[99] Accuracy of scanned data input is reviewed by contract staff for critical elements, which includes name

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[97]Those consular posts that pre-process their own cases enter data and assign A-numbers locally.

[98]The IV packet includes a strip of tear-away stickers showing the A-number and associated barcode.

[99]Where the application is sent depends on the class of admission.

and date of birth. Cases processed by the Lockbox are bar coded and files placed in order before they are mailed to the appropriate USCIS field office for interview and adjudication.[100] Adjustment of Status cases are processed using Receipt Number as the unique identifier and also include the immigrant's A-number.[101]

Once a decision is reached in family-based cases, which is currently taking about four to six months after receipt, field office staff update the CLAIMS3 record through a web process, the Interim Case Management System (ICMS), since USCIS field offices do not have direct onsite access to CLAIMS3. Most employment-based adjustment and humanitarian adjustment cases are adjudicated using CLAIMS3 at one of the four USCIS service centers. The CLAIMS3 data from all adjustment cases are subsequently uploaded from CLAIMS LANs into CLAIMS Mainframe and then into the CIS. This process can take from a few days to a month and a half. [102] This also prompts production of the Permanent Resident Card in Kentucky, which takes another two to four weeks.

Quality control checks are conducted on data scanning and entry at the Lockbox facilities on critical data elements, including name and date of birth. Data fields that cannot be read during Lockbox data entry are sent to data correction where the case is reviewed to determine accurate information. CLAIMS3 also includes edit checks and tables to validate data entered. The contractor is responsible for verifying accuracy of data entered and to correct errors. USCIS staff at each service center conducts random sample audits where they compare data keyed to original form information. Name, A-number, and Receipt Number are among the critical data elements. CLAIMS3 data are backed up daily in case of a system crash.

## 4.4. Systems

Immigrant visa processing is supported by two Department of State systems, the Immigrant Visa/Diversity Visa Processing Systems (IVIS/DVIS) and the Immigrant Visa Processing (IVO) system, which includes biometrics and prints the machine readable foil visas. Data are also maintained in the CCD.

Adjustment of status processing is supported by CLAIMS3, which is a case management system that was originally designed as a cash register system; it therefore has limited functionality. CLAIMS3 has a 66 character limit for name—18 each for first and middle name and 30 characters for last name. When using the auto fill Form I-485 the system stops accepting typing at these limits. For paper forms entered manually the system truncates any excess letters. Hyphens, other symbols, and punctuation are not allowed.

The CLAIMS3 data for both permanent residents entering with visas and those adjusting status are uploaded into the CIS, a searchable mainframe database containing basic biographic information, historical and current status information, and the location of the paper A-file for permanent residents as well as information on many other noncitizens other than many nonimmigrants.

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[100]Further data entry and preprocessing in CLAIMS3 is done for family-based cases at the NBC in Missouri before the case is sent to a local USCIS field office for interview and decision.

[101]The Permanent Resident Card shows both of these numbers.

[102]Based on information provided by the DHS Office of Immigration Statistics in September 2010 related to when statistical data on adjustment of status and overseas-processed immigrants are available.

Data for production of the Permanent Resident Card are contained in the Image Storage and Retrieval System (ISRS),[103] which is a searchable USCIS database that contains digitized biometric information including the signature and photograph used in the production of the Permanent Resident Card.[104] This data runs from 1977 forward but images from before1988 are reported to often be difficult to read. ISRS is the source of the photograph used in the E-Verify photo matching process for workers presenting a Permanent Resident ("green") Card during the I-9 verification process. ISRS has the same character limits for names as CLAIMS3 and CIS, and since there is a limit to the number of characters that fit on a permanent resident card, the name may be truncated. For instance, Maria may be abbreviated as "Ma." If a name is not abbreviated it is truncated once it reaches the record length.

## 4.5.     Changes and Corrections of Data

Biographic errors detected before visa issuance are corrected at the NVC or consular post if the applicant provides official documentation (e.g., a foreign passport) showing the desired correct information. If errors are detected at a port of entry at the time of the immigrant's arrival in the United States, any changes to the information[105] are made on the visa summary sheet in the packet and initialed by the CBP inspector who must also attach a signed explanatory memorandum explaining the change.

If a Permanent Resident Card is issued with incorrect information because of a USCIS administrative error, a permanent resident can file a Form I-90, Application to Replace Permanent Resident Card, free of charge along with proof of the correct information and the incorrect Form Permanent Resident Card. If the information on the card needs to be changed due to a change in name, for instance, the same process is followed but the resident must pay a filing fee of $365 plus a biometrics fee of $85. These requests can often be filed electronically or sent to a Lockbox location where data are entered into the CLAIMS3 system. According to the USCIS website, USCIS is currently taking three and a half months to adjudicate Forms I-90. If immigrants have been in the United States for more than a year, so that the MRIV is no longer valid, they will need to show the receipt for filing the I-90 as temporary proof of employment authorization in the I-9 process if they change jobs before they receive their new card.

## 4.6.     Use in E-Verify

CIS data are checked as part of the automatic E-Verify check, and CLAIMS3 data are checked as part of the second step verification process. As indicated above, the E-Verify photo matching process for persons presenting Permanent Resident Cards during the I-9 process relies on the photograph returned by ISRS that was used to make the original document.

## 4.7.     Comments

CLAIMS3 is available to staff in the four USCIS Service Centers and the NBC but not in the over 50 local USCIS field offices that are responsible for adjudicating adjustment of status cases. Local offices must use a web process, the ICMS, to update CLAIMS3 records about final case decisions. This workaround requires USCIS staff to take separate actions to submit this information that can result in delays in availability of current case information in CLAIMS3. CLAIMS3 data are initially processed within each of the service/benefits centers on CLAIMS3 LANs and then uploaded to the national mainframe CLAIMS3 database and then into the CIS. Although USCIS reports that there are fail safes to

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[103]ISRS is now known as the Customer Profile Management System (CPMS.)

[104]Current Permanent Resident Cards have a 10-year validity period and although the holder's status is still valid, cards must be renewed before they expire.

[105]Changes described relate to gender, marital status, and mailing address and NOT to name and date of birth.

identify incomplete or failed uploads, when problems occur, delays in availability of current information results, which in turn affects accuracy of E-Verify verifications.

The limit on the number of spaces in CLAIMS3, CIS, and ISRS for name may be insufficient for persons with compound names, particularly when both the first and last names may have two or more parts. Use of abbreviations for names (such as "Ma" for "Maria") as well as lack of hyphens or other symbols in names may also result in names on the Permanent Resident Card appearing different than names on I-9s and other documentation.

The high cost of changing a name on a Permanent Resident Card is clearly a disincentive for correcting a change in name on a card before it expires, which occurs on a 10-year cycle. This undoubtedly leads to increased erroneous TNCs for permanent residents who have not changed their name with USCIS.

Once USCIS approves adjustment to permanent resident cases, system updates into CLAIMS3 and CIS take from a few days to a month and a half.[106] Although most applicants for adjustment of status have EADs, there may be unnecessary second-level verifications and TNCs in the E-Verify process because CIS records have not been updated.

Although the ISRS photo-match capability is highly accurate, ISRS does not have information on cases where the Permanent Resident Card has been revoked, and therefore could provide incorrect information indicating a card was valid when a noncitizen was no longer in lawful permanent resident status.

## 5.  NONIMMIGRANTS

### 5.1.  Introduction

Nonimmigrants are noncitizens who are admitted to the United States for temporary periods of time and specific purposes. They are divided into a large number of classes of admission depending on the purpose of the visit. Nonimmigrant classes of admission with employment authorization are of primary interest in this appendix.

Nonimmigrants are initially processed for nonimmigrant visas overseas at Department of State consular posts.[107] Foreign nationals apply for a specific type of nonimmigrant visa depending on the purpose of their visit to the United States, and the machine readable nonimmigrant visa (MRNIV) that is affixed to the recipient's foreign passport includes the class of nonimmigrant admission,[108] the visa validity period (often 10 years), and the number of admissions that the person can make using the visa (often indefinite). Upon arrival at a U.S. port of entry, CBP inspects and admits qualified nonimmigrants for specific periods of time.

Nonimmigrants in many work-authorized categories—primarily those that will work for a specific employer or program—use their I-94 Arrival-Departure Document along with their foreign passport as

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[106]Based on information provided by the DHS Office of Immigration Statistics in September 2010 related to when statistical data on adjustment of status and overseas-processed immigrants are available.

[107]Nonimmigrant visitors for business or pleasure from designated countries may enter the United States without nonimmigrant visas under the Visa Waiver Program; they are not work authorized. There are a number of other exceptions to visa requirements for nonimmigrants, including most Canadians (regardless of their nonimmigrant classification).

[108]The DHS Office of Immigration Statistics is the "owner" of all nonimmigrant class of admission codes, which are based on the nonimmigrant classifications in the Immigration and Nationality Act.

proof of identity and employment authorization. Other nonimmigrants who either are or may be authorized to work must apply for and be issued an EAD as proof of their employment- authorized status. USCIS regulations at 8 CFR 274a.12 specify which nonimmigrants may use their I-94 and which must apply for an EAD. If nonimmigrants want to change their length of authorized stay in the United States or change to a different nonimmigrant class of admission they must also apply to USCIS and be approved. This section of the appendix discusses each of these topics: I-94s, EADs, and nonimmigrant changes of status or extension of stay.

## 5.2.    Arrival/Departure Documents (I-94s)

### 5.2.1.   Forms

Before traveling to the United States most nonimmigrants who will be employed must have a valid nonimmigrant visa in their foreign passport. Most nonimmigrant visa applications are now submitted electronically through the Electronic Visa Application Form (EVAF) by the applicant or their representative and are processed by consular officers at posts. Fees range from $140 to $390 depending on the class of admission, with most work-related nonimmigrant visas having $150 fees. The NIV application requests family, first, and middle names in a single box on the hard copy application but has separate boxes for surname (as listed in passport) and first and middle names (as listed in passport) on the EVAF. Examples are given on the electronic form, and a compound surname is used in the example. Instructions are also provided for cases where there is no given name listed in the passport (enter FNU.) Instructions on the NIV application say that surname(s) and given names should be as listed in the passport. It also asks for other names used currently or in the past, including maiden, religious, professional, or any other names. Each nonimmigrant visa is uniquely numbered and the number is available in the CCD.

All nonimmigrants, including those with visas who are authorized to work incident to their nonimmigrant status,[109] complete a CBP Form I-94, with arrival and departure sections, before or upon arrival at a U.S. air or sea port of entry.[110] In many cases the I-94 serves as the employment authorization document for nonimmigrants because they are working for a specific employer who has petitioned for their temporary admission and U.S. employment. The I-94 asks for "Family Name" and "First (Given) Name." There are 19 spaces on the form for family name and 13 spaces for first name. There are no instructions for writing name or on handling hyphenated or compound names.[111] I-94 numbers are preprinted on the document, and are supposed to be unique, although occasionally carriers print already assigned blocks of numbers. The I-94 also requests nonimmigrants to provide their passport number on the form.

### 5.2.2.   Process

The I-94 may be electronically printed by a carrier (usually an airline), but foreign nationals usually complete it by hand. Although instructions and forms may be printed in many languages in airline brochures or on specially produced forms, the submitted I-94 must be completed in English in the Roman

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[109] Only work-authorized nonimmigrants are discussed in this report. This is a group defined by USCIS regulations at 8 CFR 274a.12(a) and (b) that does not need to apply separately for authorization to work or be issued an I-766 Employment Authorization Document because their ability to work is inherent in their nonimmigrant status either because of their status or because their employment is limited to a specific employer or program. This latter group includes nonimmigrant classifications where an employer has petitioned to USCIS and been approved to employ them for a given period of time, such as H, L, O, or P nonimmigrants.

[110] Nonimmigrant arrivals at land ports of entry are now captured electronically.

[111] The Spanish version of the I-94 asks for "appellidos" (last names) in the plural.

alphabet.[112] The officer may annotate additional information, such as A-number, occupation and/or petition number, on the reverse side of the I-94 for specified classes of admission.

During the inspection, the CBP officer rubber stamps the I-94 arrival and departure sections and the passport with admission information (port of entry, date, and inspector number) and annotates by hand the nonimmigrant class of admission based on the classification on the nonimmigrant visa and the "date admitted until." Both are written in a space provided within the admission stamp. Unless the nonimmigrant formally applies and is granted an extension of that period by USCIS, he or she must depart by that date or be in unlawful status.[113] Typically, for workers coming to work for a specific employer or program, the date admitted until for employment-authorized nonimmigrants reflects the petition period, if one exists, plus another 10 days. Nonimmigrants in some categories, notably most F students and J exchange visitors, are given stays for "duration of status" which means they are admitted for a period as long as they continue to comply with the provisions of their temporary nonimmigrant status.[114]

The arrival portions of Forms I-94 are sent to a dedicated centralized CBP contract data center in Kentucky where they are scanned and data entered into the nonimmigrant portion of TECS.[115] The CBP Inspector affixes the departure portion of the I-94 to the nonimmigrant's foreign passport and upon departure from the United States it is pulled by the carrier and sent to the CBP contractor for data entry and matching with the arrival portion.[116]

Inspectors at ports of entry are instructed to express mail the arrival portion of the Form I-94 within 24 hours to the CBP contract data entry facility in Kentucky. However, late in the day arrivals, weekends, holidays, and bad weather can result in a several day delay in shipping and arrival of I-94s at the contract data entry site. At one time the contractor matched receipt of I-94 batches with flight arrival schedules to ensure they received I-94s for all flights; according to CBP this is no longer done, so there may be batches of I-94s for entire flights that are not received and keyed. Once received, the contractor processes, scans, and data enters I-94 information into the local system within 72 hours. Upload of nonimmigrant data into the TECS mainframe, which is done on an ongoing basis, takes another day. With this series of steps, there is typically a minimum of a 10 to 14 day delay between the arrival of a nonimmigrant and availability of their information in TECS, and the delay for some I-94s can be much longer. Efforts such as sending electronically scanned I-94s from large airports and use of electronic I-94s for land border arrivals have been made to reduce the delay in availability of some nonimmigrant data. CBP told the evaluation team that it has plans to replace the I-94 system with a totally electronic system during 2013.

To minimize the problem of I-94 data latency in TECS, USCIS began using data available through CBP from the Advanced Passenger Information System (APIS), which provides data on all persons arriving in the United States by air or sea carrier on a real-time basis. APIS information comes from passenger or carrier-input biographic information during ticketing and by law must be sent electronically to the U.S.

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[112]Illegible, poor, or ambiguous handwriting is the source of a major portion of errors on I-94s.

[113]Extensions of nonimmigrant stay are discussed later in this section.

[114]Data on students and exchange visitors and their dependents are collected, maintained, and managed in SEVIS, maintained by ICE to ensure they are maintaining the lawful status required by their programs. It also contains information on the approval of educational institutions and programs that are authorized to accept these nonimmigrants. There is currently no automated data on employment authorization in SEVIS records, although work is underway to provide them.

[115]TECS is not an acronym. It originally stood for Treasury Enforcement Communications System, but after moving with the Customs Service in Treasury to CBP in DHS, the system is now "TECS."

[116]If an E-Verify verification shows an I-94 number with a departure date, the case is referred to second-level verification since the person has presumably departed the country. The most likely case is that the nonimmigrant has reentered and is using the wrong documentation.

port of arrival before a plane is secured for departure or a ship arrives at a U.S. port. CBP inspectors match APIS records to the information in passports during the inspection process. APIS data include a first and last name as well as middle name if available. APIS data has a self-generated number and includes passport number, but does not include A-number, I-94 number, or visa number.

### 5.2.3. Systems

Information on nonimmigrant visas is maintained in the Nonimmigrant Visa System (NIV) and replicated in the Department of State CCD, a data warehouse that holds current and archived data from many consular systems. It provides near real-time transaction activity on consular domestic and post activity.[117]

Nonimmigrant arrival and departure information is maintained in the CBP TECS system and contains information on the arrivals and departures of noncitizens admitted to the United States temporarily with visas for specified purposes as nonimmigrants. TECS includes 13 characters for the first name and 19 characters for the last name. Any additional characters are truncated. These limits will be eliminated in the new electronic arrival system, currently scheduled to be implemented during 2013 when the I-94 is phased out.

APIS data are also accessed through CBP to search for nonimmigrant records when they are not yet available in TECS.

### 5.2.4. Changes and Correction of Data

Accuracy of nonimmigrant visa information is the responsibility of the applicant and consular staff processing the visa. Manual review of the completeness and accuracy of information is conducted when the application is accepted. If an error in name, date of birth, or class of admission is detected during inspection at a U.S. port of entry, the CBP inspector makes the correction. If an error in name, date of birth, class, or period of admission is detected on a Form I-94 based on action taken at the time of arrival, the form and documentation of the correct information can be taken to a designated CBP deferred inspection office for correction without charge. Corrected records do not necessarily replace the earlier records in TECS. Nonimmigrants needing to replace lost, stolen, mutilated, or incorrect I-94s can file a Form I-102 along with a $330 fee to USCIS. USCIS processing time for I-102s is currently about two and a half months.

If at the time of data entry the I-94 has critical errors such as missing, incomplete, or illogical data, the data cannot be entered into TECS and the record is sent to an "exception file" which is also available in the Verification Information System (VIS) as part of TECS. Certain specified DHS/USCIS employees can make corrections to TECS records, including completing or correcting information in the TECS exception file records, when the current and corrected data are presented to them by MPAs or other DHS staff. Once these corrections are made, the new TECS record is sent back to CPS. The VIS locates the original record and overwrites it with the corrected record, thereby making the system accurate. A similar process has been used to update VIS through CLAIMS3 updates related to changes of nonimmigrant status, extensions of stay, or adjustment to lawful permanent resident; however, the evaluation team was told that USCIS terminated this process in March 2011.

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[117]A portion of these data needed for employment verification can be accessed by MPAs through the Enterprise Service Bus (ESB) using PCQS.

### 5.2.5.  Use in E-Verify

TECS and APIS are both accessed in the E-Verify automated verification process. Limited information on nonimmigrant visa issuance is available from CCD through PCQS for second and third step verifications.

### 5.2.6.  Comments

TECS is the most error prone database accessed by E-Verify, which particularly affects the ability to accurately verify nonimmigrants. The problems are pervasive. Space on I-94s is very tight and handwritten I-94 biographic information and CBP inspector notations on class of admission and date by which the nonimmigrant must depart are often ambiguous or not clearly legible. Data entry staff lack any corroborating documentation to resolve ambiguous data and can easily make errors if what they are viewing is not completely clear. Mistakes in data entry between "I," "j," and "l," and "4," "7," and "9," for instance, are very common. Because of the large volume of I-94s processed annually, errors in even a small percentage of cases results in a significant number of verification-related problems. Further, delays in getting I-94s into TECS result in data not being available for verification through SAVE for issuance of SSNs or for E-Verify verifications. This can result in issuance of erroneous TNCs.

Some of the problem results from the divided responsibility for the post-admission correction of errors between USCIS and CBP. Much of this conflict relates to interagency unwillingness to do the work of the other, but workers get caught in the middle. A final issue worth noting is the lack of instructions or clear process for making I-94 corrections for name changes subsequent to arrival. It is reasonable to believe that, since some nonimmigrants are admitted for several years, name changes due to marriage, divorce, or "Americanization" of names are common.

While APIS data are available on a real-time basis, their promise has not been realized. The evaluation team was told by USCIS staff that data consistency with APIS is not high and that the lack of an I-94 number in APIS requires that a match be attempted on the nonimmigrant's name and date of birth. CBP officers further told the evaluation team that APIS data are not an accurate source of the most recent information on a noncitizen's admission. Apparently Arrival/Departure Information System (ADIS) data from the DHS U.S. VISIT Program would be a better source of information for verification of recent noncitizen arrivals. ADIS uses Department of State visa issuance data in CCD that is activated by the swipe of a foreign passport at the time of arrival in the United States, which adds information on time and place of admission to the already data-rich record.

### 5.3.  Employment Authorization Documents (EADs)

### 5.3.1.  Form

Nonimmigrants in certain classes of admission may apply to USCIS for an original, replacement, or renewal EAD using Form I-765 which requires a $380 filing fee.[118] A small space is provided for listing family name (in CAPS), and first and middle name; additional guidance is not provided. The I-765 application form requests the applicant to list any SSN ever used, and any A-Number or I-94 Number issued, although these are not necessarily automated. The EAD shows both the noncitizen's A-number and the unique receipt number related to the issuance of that card.

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[118]Certain classes of admission, including those for humanitarian purposes, are exempt from the filing fee.

EADs (USCIS Form I-766) are issued to several groups of noncitizens, including certain[119] noncitizens whose authorization for employment is inherent in their immigration status, and other noncitizens who are in specified immigration classifications that may apply to USCIS for employment authorization. EADs are required as evidence of employment authorization in the second group and may be necessary for some noncitizens in the first group. EADs are usually valid for a period of one or two years and can be renewed if the noncitizen continues to be in an immigration status with employment authorization. The EAD shows the section of the Code of Federal Regulations (starting with 8 CFR 274a.12) under which the noncitizen qualifies for employment authorization in the United States rather than the noncitizen's class of admission.

### 5.3.2. Process

Most I-765 applications for EADs are initially sent to and data entered at a contract USCIS Lockbox location and then downloaded into CLAIMS3 for processing at one of the four USCIS Service Centers, depending on the immigration status of the applicant. Additionally, many categories of noncitizens are able to file their forms with USCIS electronically.[120] The EAD application is then adjudicated at one of the four USCIS Service Centers in the local CLAIMS3 LAN. After case completion these data are uploaded into the National CLAIMS3 Mainframe and into the CIS. The CIS information is subsequently downloaded into VIS/CPS on a nightly basis.

EADs are issued through USCIS's ISRS discussed earlier, which includes data from the card as well as the photograph and any biometric data that have been captured during the process.

USCIS processing time for applications for EADs is currently three months, with faster processing for initial applications by applicants for asylum whose cases have not been decided after 150 days; in these cases, the average processing time is currently three weeks. EADs for refugees are supposed to be issued more quickly because the EAD is typically their only form of identification and is needed to apply for other forms of identification such as an SSN, a driver's license, or for public benefits.

### 5.3.3. Systems

EAD applications are processed in CLAIMS3, and the documents are printed using ISRS, both discussed above. Both of these systems provide 18 characters each for the first and middle names and 30 for the last name on EADs. Because there is a limit to the number of characters that fit on the EAD a name is truncated once it reaches the record length. USCIS guidelines require the permanent resident's legal name to be used on the EAD.

### 5.3.4. Changes and Correction of Data

The I-765 application is filed to request a replacement EAD if the EAD card was "lost, stolen, mutilated, or contains erroneous information, such as a misspelled name." There is no charge for the replacement if the error on the card was due to a USCIS administrative error. Other changes, such as a name change due to marriage, require that the applicant pay the full $380 application fee.

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[119] Pursuant to regulations at 8CFR §274a.12.

[120] These cases are downloaded directly into CLAIMS3 and routed electronically to the appropriate USCIS Service Center for processing.

### 5.3.5. Use in E-Verify

The EAD is one of the primary documents USCIS issues as evidence of employment authorization for noncitizens in temporary statuses and serves as evidence of temporary employment authorization in the I-9 and E-Verify employment verification processes. ISRS is checked during the E-Verify automated check and CLAIMS3 during the second-level check. As indicated above, the E-Verify photo matching process for persons presenting EADs during the I-9 process also relies on the ISRS photograph used to make the EAD that E-Verify returns to the employer to match with the photo contained on the EAD.

### 5.3.6. Comments

The fees for a replacement card would likely serve as a disincentive to request a name change on an EAD until it needed to be renewed. While this would be expected to lead to unnecessary erroneous TNCs, most EADs are replaced on an annual or biannual basis so the period where the name was inaccurate would be relatively short.

The EAD is not evidence of lawful presence since EADs may be issued to some out-of-status noncitizens who are in proceedings before an immigration court or during an appeal of a court's decision. Moreover, although an EAD may have a future expiration date, if the noncitizen is no longer in the status in which he or she was issued the card or another work-authorized status, the noncitizen is no longer authorized to work. In this latter case, an employer could hire a person and assume the person was work authorized based on the EAD and only find out during an E-Verify check that the worker was no longer in an employment-authorized status.

To add further confusion, some noncitizens that are issued EADs, such as refugees and asylees, have permanent employment authorization and can adjust to permanent resident status after one year. In such cases, an expired EAD does not mean that these noncitizens are not work authorized. Noncitizens with work-authorized status that continues past the expiration date on the EAD must reapply for a new EAD and are encouraged to do so in advance of the card's expiration date to avoid having a period when they are without evidence of their continuing permission to work. These noncitizens typically are able to obtain other evidence of identity and work authorization, such as a driver's license and unrestricted Social Security Card, that satisfies I-9 requirements; however, the A-number is still needed in order to verify work-authorized status.

Verifications of EADs are based on Receipt or A-number rather than an I-94 number. Without evidence of a valid EAD and A-number, noncitizens in these categories will not be found to be work authorized by E-Verify even though a matching I-94 exists.

### 5.4. Change of Nonimmigrant Status and Extension of Nonimmigrant Stay

### 5.4.1. Form

Nonimmigrants wanting to change status to another nonimmigrant category or to extend the time that they can stay legally in the United States file USCIS Form I-539 and pay a $290 application fee. The form provides separate spaces for family, first, and middle names. No additional guidance on providing complex types of names is provided.

## 5.4.2. Process

The I-539 is filed electronically or sent to a Service Center or Lockbox, depending on the nonimmigrant class of admission.[121] Applicants are encouraged to apply at least 45 days in advance of the expiration date of their stay or time when they need to change nonimmigrant status.

Data from the I-539 are usually entered into CLAIMS3[122] at the Lockbox or Service Center as described for the EAD. The CLAIMS approval notice includes a tear-off section that serves as a replacement Form I-94 showing the new nonimmigrant status and/or extension of stay date. The CLAIMS3 data to extend or change nonimmigrant status update VIS records nightly.

USCIS processing time for Form I-539 applications is currently two and a half months. Since the adjudication is processed in the local CLAIMS3 LAN and uploaded nightly to Mainframe CLAIMS3 and then CIS, the change should be reflected in CIS and VIS within a few days of the decision unless there are problems with uploading data.

## 5.4.3. System

The I-539 is processed in CLAIMS3, which uses Receipt Number as the numerical identifier. Because CLAIMS3 is event based, it does not consolidate information for individuals who have multiple application records in CLAIMS3. Multiple CLAIMS3 records may be especially likely for nonimmigrants filing Form I-539 who may, for instance, also have applied for an earlier change or extension or an EAD.

## 5.4.4. Changes and Corrections to Data

Updated information after USCIS approves applications for extensions of nonimmigrant stay or changes from one nonimmigrant class of admission to another in CLAIMS3 is sent to TECS to be appended to the original TECS record. This new information is used to update VIS records nightly. In some cases incorrect information in TECS can also be updated by designated USCIS or DHS officials after the problem is identified and the correction is documented as part of an E-Verify third-step verification process.

## 5.4.5. Use in E-Verify

CLAIMS3 is accessed during second and third step E-Verify verifications.

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[121] Certain diplomats and foreign government and NATO officials file with the Department of State or an international organization.

[122] The USCIS Adjudicators' Manual states that "If the application is not processed in CLAIMS, the original I-94 must be manually noted on the reverse with the approval date, office three-letter code, and officer stamp number." There is also a notation that a new nonimmigrant visa is required to reenter the United States in the present (new) status.

# APPENDIX B.
## STEPS FOR CLEANING THE TRANSACTION DATABASE

This appendix describes the approaches used to clean the E-Verify Transaction Database. The main purpose of the cleaning is to identify and delete as many transactions as possible that were entered in error or that are duplicated. It is not always easy to determine which transactions should be removed. For example, the duplicate Social Security numbers (SSNs) for several employers were examined to see if it was reasonable to assume that when two SSNs were transmitted close together in time, they were related to a single case rather than multiple hiring of the same person or of different persons fraudulently using the same SSNs.

To improve the cleaning process, the evaluation team intensively reviewed the cleaning steps described in the last report, examined the records on the initial file to determine whether the rules make sense in terms of what is on the database, and modified the rules as necessary. The most significant modification was to calculate the sequence of various verification events. Although it is not possible to develop a perfect measure that will place all cases in accurate sequential order, the evaluation team believes that applying this measure results in a database that more accurately reflects what is happening to individuals being screened by the E-Verify Program and correctly identifies the cases to be retained.

This process is divided into four sets of actions: (1) preliminary steps, (2) SSN checks, (3) alien number (A-number) checks, and (4) name checks. Each is examined in turn. The flowcharts illustrating the steps are provided following the narrative.

## 1.    PRELIMINARY STEPS

Prior to examining the transaction record, the EV-STAR data were merged with the initial Transaction Database. The preliminary steps involved identifying and deleting the cases that are clearly invalid transactions. The potential sources of invalid transactions included in the initial database were cases closed as invalid queries, records that appear to be identical for a particular case (referred to here as system duplicates), test cases, and cases transmitted using the PC system that preceded the Web Basic Pilot. Exhibit B-1 summarizes the preliminary steps. Of the over 10.5 million records from September 2008 through October 2009 on the initial Transaction Database, 273,925 (2.6 percent) were deleted because the employer closed the case with a closure code of "IQ," indicating it was an invalid query. Another 49,504 (0.5 percent) were deleted because they appeared to be system duplicates; that is, all of the case information and the initiated date were the same. We also deleted one case that appeared to be an "out of date window" case.

Following the preliminary checks, records were examined to determine if they were multiple records transmitted for a single case and, if so, to determine the cause of the duplication and take the necessary corrective action. To be considered two records for a single case, the records had to be matched on one or more of the checks described below (i.e., the SSN check, the A-number check, or the name check). Determining the reason for multiple records for a given case is, however, not straightforward. For instance, there is not an easy way to distinguish between individuals who are rehired by the same employer and employers hiring multiple persons fraudulently using a specific SSN. The evaluation team, therefore, developed and applied a set of rules to use in classifying duplicate records for a case.

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## 2.  SOCIAL SECURITY NUMBER CHECKS

Exhibit B-2 indicates the sequence of checks run on the cases with duplicate SSNs. The first check was to identify whether it seems likely that the employer should have closed the case as an invalid query but failed to do so. For example, when an employer submits two nonidentical records on the same day for the same SSN that differ from one another on basic identifying information such as last name, the evaluation team assumes that the case with the earlier event measure should have been closed.[123] This step led to the deletion of 51,282 records.

Cases were assumed to be resubmittals of cases that had been referred to the Social Security Administration (SSA) when two records for an employer had the same SSN and hire date, the case with the lower verification number was an SSA Tentative Nonconfirmation (TNC), and the event measure of the lower case number was not more recent than the case with the higher case number. This step led to deletion of 10,016 cases; prior to deletion of a case with these duplicate records, information from the record with the lowest verification number was used to complete the fields describing the initial disposition of the case.

Duplicate records were assumed to be mistaken resubmittals of authorized cases when the duplicate SSN cases from the employer received a system response of authorized. Approximately 197,297 cases were deleted based on this rule.

Duplicate records were assumed to be resolved SSA TNC cases when workers claim to be U.S. citizens and have records on EV-STAR and resolution codes. Based on this rule, 907 cases were deleted.

In addition, duplicate record cases were assumed to be U.S. Citizenship and Immigration Services (USCIS) cases resolved at the third stage when they had a third resolution code indicating that they had been resolved at the third stage. Based on this rule, we deleted 1,088 cases.

## 3.  ALIEN NUMBER CHECKS

Of the 905,492 cases with A-numbers, 1,191 had A-numbers that were clearly made up (e.g., a number consisting only of 9s); these were not subject to cleaning based on A-numbers because they most likely were numbers entered by employers when the correct A-number was not available.[124] Cases with the remaining A-numbers were examined during a process that was similar to that used for the duplicate SSNs except that it was A-numbers that were checked for possible duplicates. Since the SSN check preceded the A-number check, and since all cases have SSNs and only noncitizen cases have A-numbers, it is not surprising that the duplicate A-number checks resulted in the deletion of fewer cases than the duplicate SSN number checks. Based on the cleaning rules (Exhibit B-3), 2,919 records were deleted because they should have been closed as invalid queries. Another 134 records were deleted because they appeared to be work-authorized cases that had been mistakenly resubmitted, and an additional 21 records were deleted as probable third-stage resolved cases.

## 4.  NAME CHECKS

To perform name checks, all the name fields were changed to upper case and all special characters were deleted to ensure all records had the same name formats and a matching variable was constructed from

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[123]The event measure indicates where the case was in the verification process.

[124]When no A-number was available for a case with an I-94 number, the I-94 number was used instead of the A-number.

the name and birth date of the case. This cleaning routine was primarily designed to identify duplicate records that would not have been identified in the SSN and A-number checks because, for example, the employer realized that an incorrect SSN or A-number had been transmitted and he/she resubmitted the corrected information without closing the original case as an invalid query. Based on the checks (Exhibit B-4), 14,971 records were deleted as cases that should have been coded as invalid queries. In addition, 2,946 cases were deleted because they appeared to be mistaken duplicates, and 24 duplicate records were deleted for cases that appeared to be resolved TNC cases.

## 5. TOTAL CASES CLEANED

A total of 605,035 (6 percent) were removed during the cleaning process (Exhibit B-5). Of the removed cases, 323,430 (53 percent) were deleted at the preliminary step, 260,590 (43 percent) were removed during SSN checks, and an additional 3 percent were removed during A-number (3,074 cases) or name (17,941 cases) checks.

**Exhibit B-1. Preliminary Steps**

# Sep 2008 – Oct 2009 Data Cleaning Step 1

**Raw Data from CSC**

10,545,581 records

Yes:
273,925 records

Invalid Queries
Closure Code=IQ

No:
10,271,656 records

Yes:
0 records

Test Cases

No:
10,271,656 records

Yes:
0 records

Pilot Cases
PC,PC-BP,PC-DABP

No:
10,271,656 records

Yes:
1 record

Out of Date Window
Before June 01, 2004

No:
10,271,655 records

Yes:
49,504 records

System Duplicates

No:
10,222,151 records
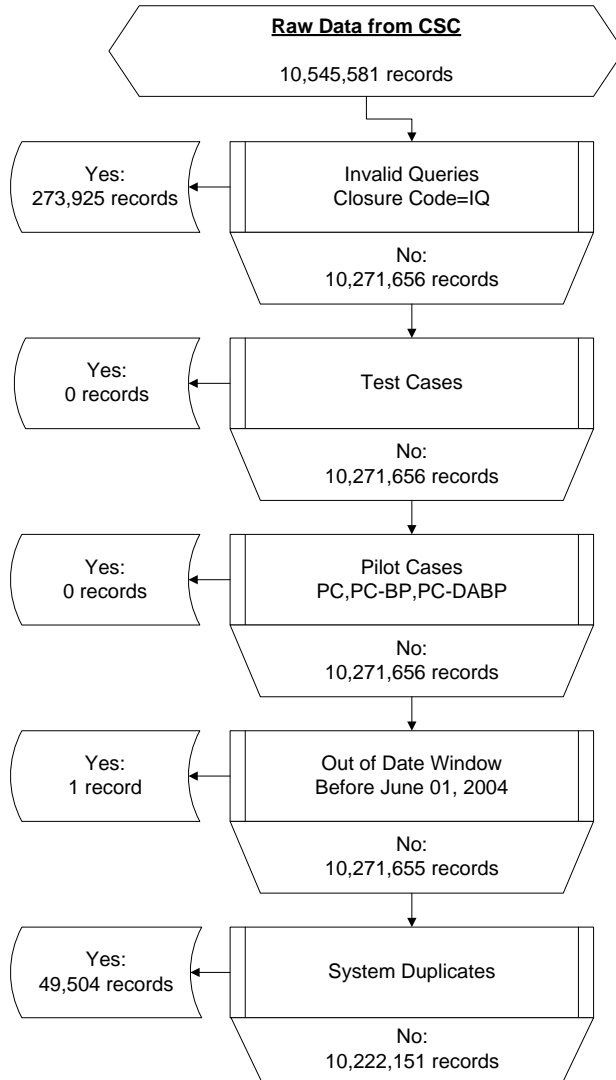
**Exhibit B-2. Social Security Number Checks**

# Sep 2008 – Oct 2009 Data Cleaning Step 2

**Duplicates Defined by SSN Number**

From Previous Step: 10,222,151 records

Closed in Error

Yes:
51,282 records

No:
10,170,869 records

Resubmittals

Yes:
10,016 records

No:
10,160,853 records

Mistaken Duplicates

Yes:
197,297 records

No:
9,963,556 records

Resolved EV-Star Cases for Citizens

Yes:
907 records

No:
9,962,649 records

Third Resolution Code Cases

Yes:
1,088 records

No:
9,961,561 records

**Exhibit B-3. Alien Number Checks**

# Sep 2008 – Oct 2009 Data Cleaning Step 3
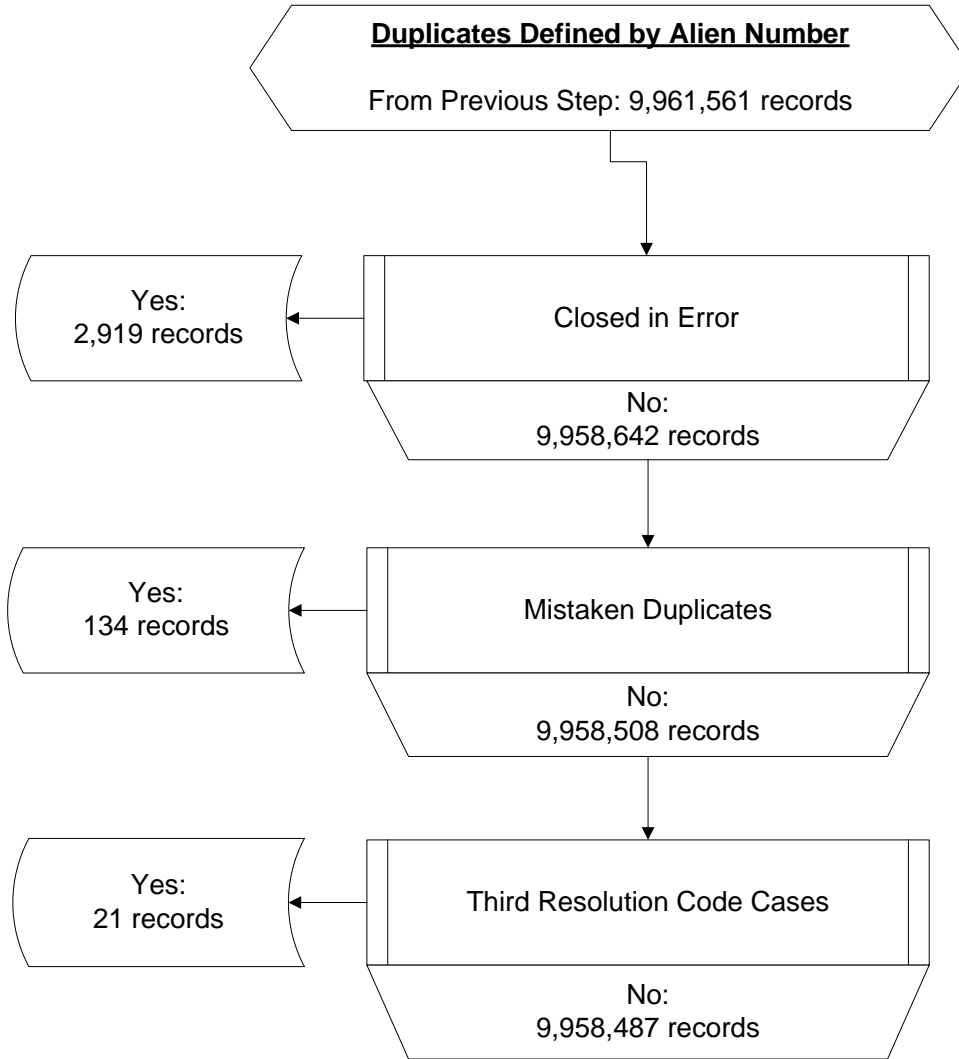
**Exhibit B-4. Name Checks**

# Sep 2008 – Oct 2009 Data Cleaning Step 4

**Duplicates Defined by Name**

From Previous Step: 9,958,487 records

| | |
|---|---|
| Yes: 14,971 records | Closed in Error |
| | No: 9,943,516 records |

| | |
|---|---|
| Yes: 2,946 records | Mistaken Duplicates |
| | No: 9,940,570 records |

| | |
|---|---|
| Yes: 17 records | Resolved EV-Star Cases for Citizens |
| | No: 9,940,553 records |

| | |
|---|---|
| Yes: 7 records | Third Resolution Code Cases |
| | No: 9,940,546 records |
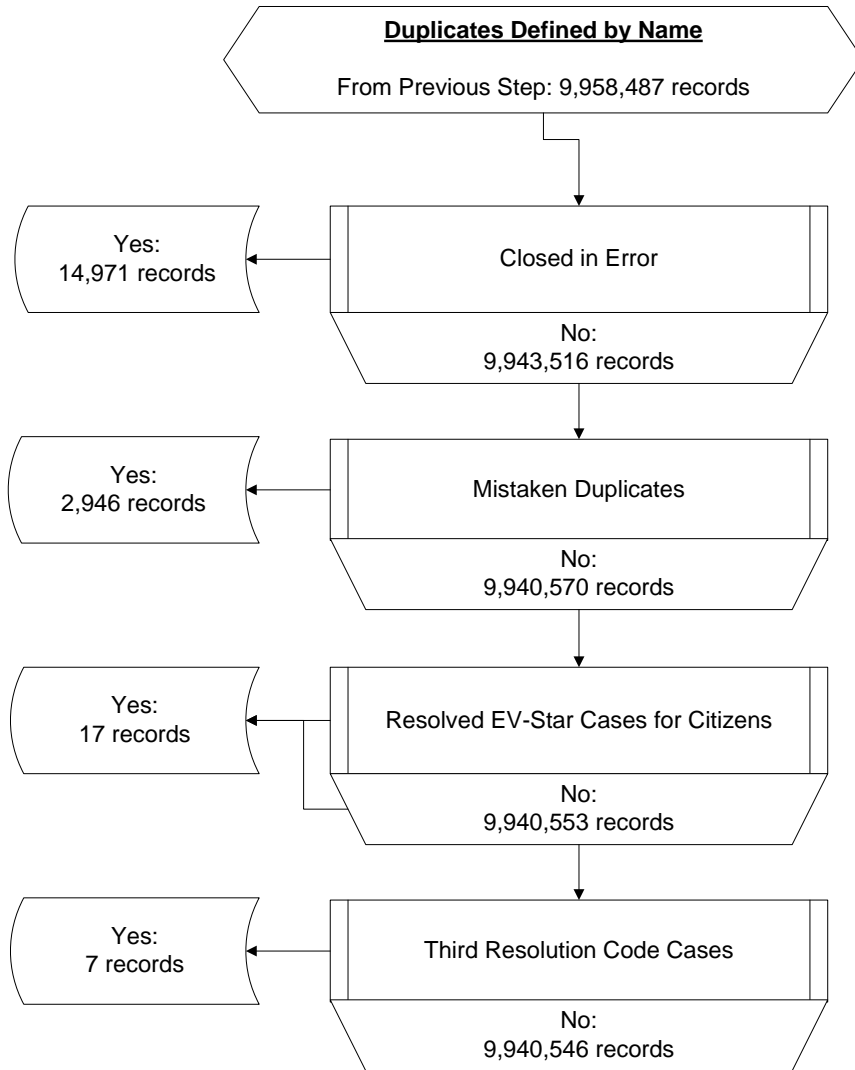
**Exhibit B-5. Total Cases Cleaned**

# Sep 2008 – Oct 2009 Data Cleaning Summary

```
                    ┌──────────────────────────────────────┐
                    │  Data from CSC: 10,545,581 records    │
                    └──────────────────────────────────────┘
                         │                          │
                         ▼                          ▼
          ┌───────────────────────┐   ┌───────────────────────┐
          │  Preliminary Cleaning: │   │    Total Retained:    │
          │ 323,430 records deleted │   │  9,940,546 records    │
          └───────────────────────┘   └───────────────────────┘
                         │
                         ▼
          ┌───────────────────────┐
          │   Classified SSN      │
          │     Duplicates:       │
          │ 260,590 records deleted │
          └───────────────────────┘
                         │
                         ▼
          ┌───────────────────────┐
          │ Classified Alien Number │
          │     Duplicates:       │
          │  3,074 records deleted  │
          └───────────────────────┘
                         │
                         ▼
          ┌───────────────────────┐
          │   Classified Name     │
          │     Duplicates:       │
          │ 17,941 records deleted  │
          └───────────────────────┘
                         │
                         ▼
          ┌───────────────────────┐
          │    Total Deleted:     │
          │   605,035 records     │
          └───────────────────────┘
```
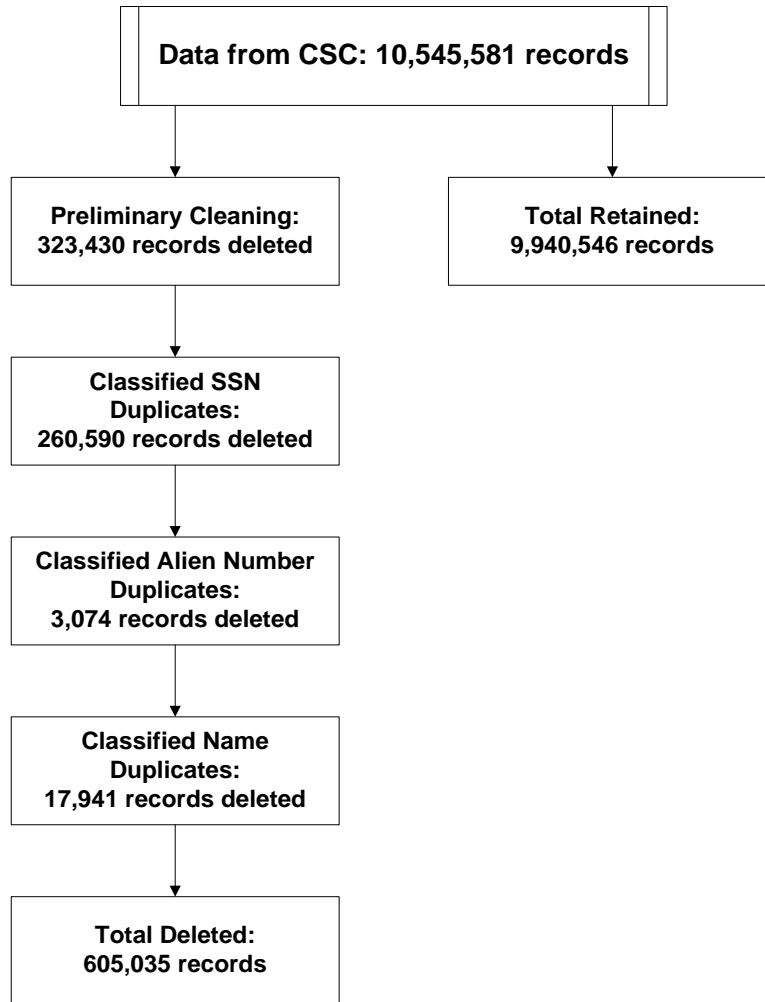
# APPENDIX C
## MEASURING ACCURACY IN
### *EVALUATION OF THE ACCURACY OF E-VERIFY FINDINGS*

## 1.    INTRODUCTION

The goal of this appendix is to describe accuracy measures that are presented in the report and supplemental tables. Section 2 presents the advantages and disadvantages of four options that Westat considered for possible use as the primary measure of accuracy (or inaccuracy) in the report. Section 3 provides information about additional supplemental measures for specific issues related to accuracy.

## 2.    POSSIBLE PRIMARY MEASURES OF ACCURACY

Previous E-Verify evaluations have used the erroneous Tentative Nonconfirmation (TNC) rate (the percent of all cases ever found work authorized that received a TNC prior to being found employment authorized) as the primary accuracy indicator for employment-authorized workers. A major limitation of this rate for the current report, which was designed to look more deeply into accuracy, is that meaningful erroneous TNC rates comparable to those in prior reports cannot be calculated for many subgroups of interest. For example, we cannot calculate an erroneous TNC rate for cases that were found to have a name mismatch since, by definition, there are no cases with a name mismatch that were automatically found employment authorized.

Westat considered it advantageous to focus on a single measure of accuracy to ensure clarity in this report. Four alternatives were developed and considered for use as the primary measure of accuracy. All of these measures are sufficiently broad to be used as a primary measure in comparative analyses in the report. The measures differ in the following ways:

- Whether the measures use model-based estimates of the employment-authorization status of workers ([3] and [4] use model-based estimates).

- The point in the E-Verify process on which they focus, i.e., findings at the automated [2], TNC [1] and [3], or Final Nonconfirmation (FNC) stage [4].

- Whether emphasis is placed on accuracy [3] and [4] or inaccuracy [1] and [2].

- The likelihood that stakeholders will understand the measure and believe it to be a reasonable measure of accuracy.

To help clarify the approaches that can be taken to measure accuracy, examples are presented of U.S. Citizenship and Immigration Services (USCIS) case outcomes for cases sent for second-level review, classified by the stage at which case outcomes were determined. Exhibit C-1 shows the actual distribution of these cases, and Exhibit C-2 uses the model-based methodology to estimate the number of Final Nonconfirmation (FNC) cases belonging to unauthorized workers.

It should also be noted that measures not selected as the primary measure may be used in specific discussions within the paper for which they are most suitable and/or presented in the supplemental tables.

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**Exhibit C-1. Actual USCIS E-Verify Findings, by Stage of Finding for Cases Sent to Second-Level Review: FY 2009**
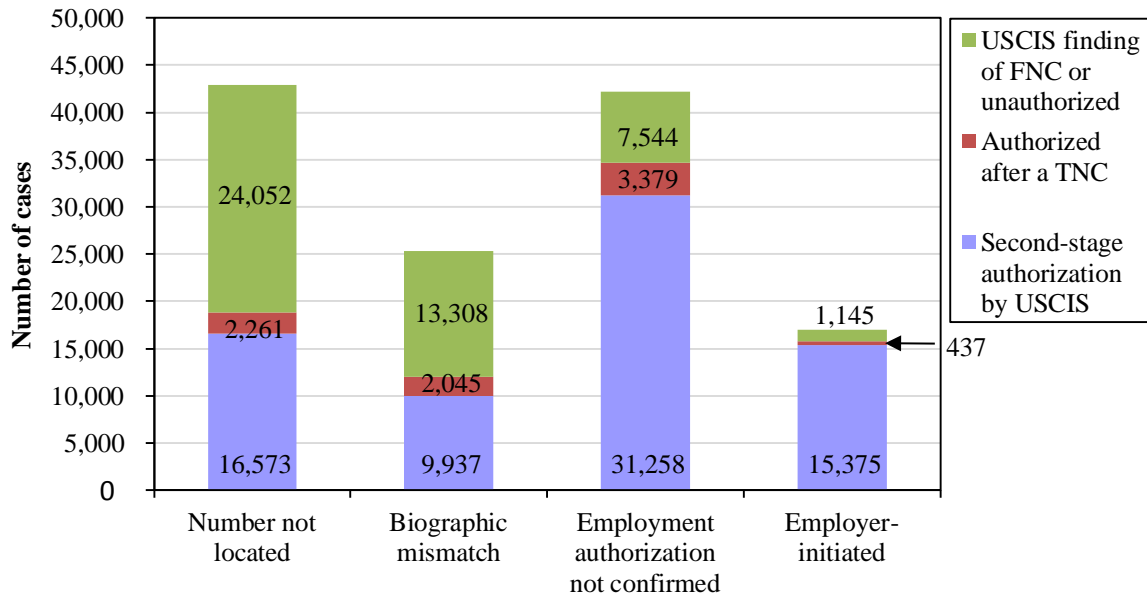


**Exhibit C-2. USCIS E-Verify Findings for Cases Sent to Second-Level Review, by Stage of Finding and Estimated Employment-Authorization Status: FY 2009**
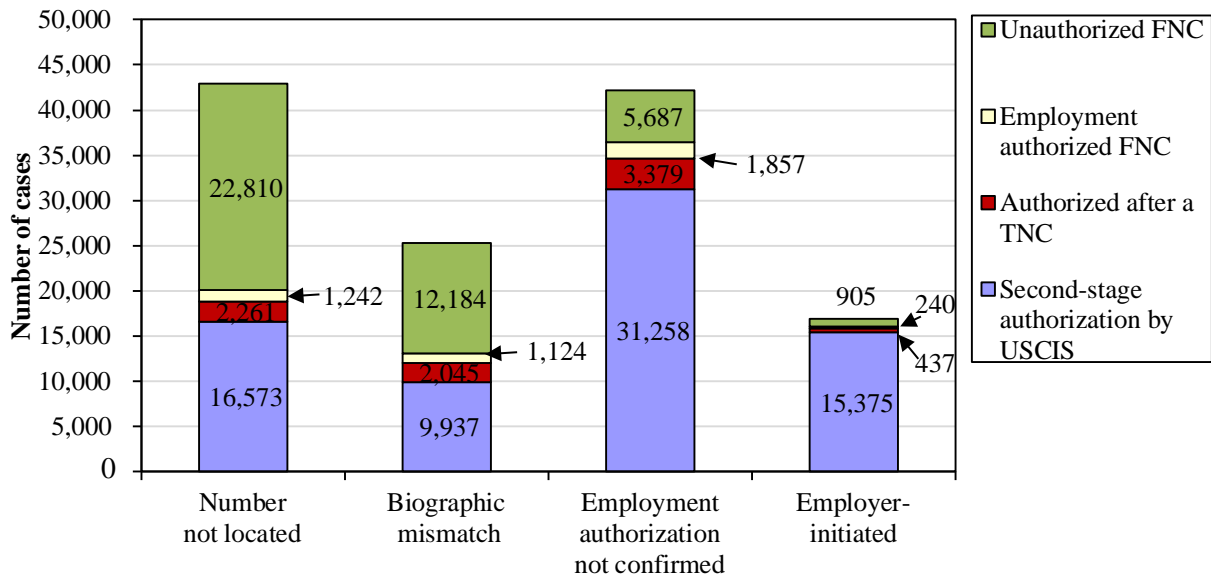
Exhibit C-3 shows two possible inaccuracy rates:

> **[1] Percent of TNCs successfully contested.** This is the measure that the evaluation team originally had planned to use and has the advantages of being fairly straightforward (no modeling is needed) and easy to calculate. The lower the percent of TNCs successfully contested, the more accurate the findings. The disadvantage of this measure is that stakeholders might not find it easy to understand why this is a measure of accuracy. It can be estimated from Exhibit C-1 data. Using "number not located" cases (see Exhibit C-3) to illustrate:

$$\text{Percent of number not located TNCs successfully contested} = 2{,}261/(2{,}261+24{,}052) = 8.6 \text{ percent}$$

> **[2] Percent of USCIS nonautomated cases resolved at second- or third-level review.** The advantages of this measure are that it reflects the accuracy of the automated review, has face validity, and does not use modeling. However, the consequences of a resolved second-level review are presumably small compared to those receiving a TNC or FNC, and this measure does not take into account the magnitude of the error types. It can be estimated from Exhibit C-1 data. Using number not located cases (see Exhibit C-3) to illustrate again:

$$\text{Percent of USCIS nonautomated number not located cases resolved at second- or third-level review} = (2{,}261+16{,}573)/(2{,}261+16{,}573+24{,}052) = 43.9 \text{ percent}$$

**Exhibit C-3. Possible Inaccuracy Rates**
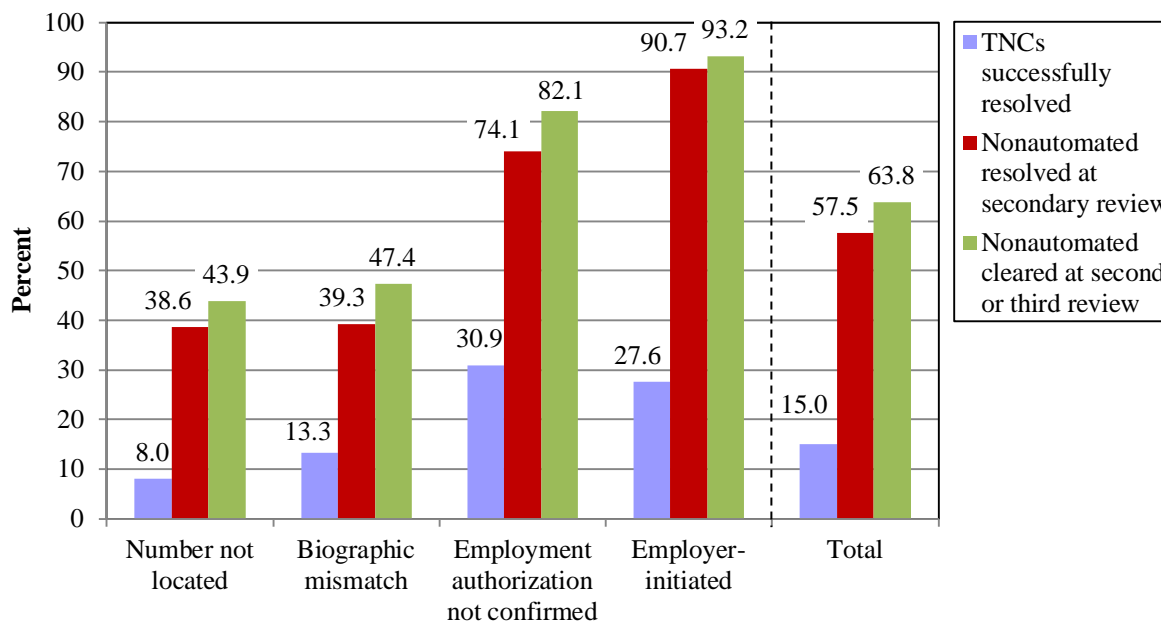
Exhibit C-4 shows two possible accuracy rates:

**[3] FNC accuracy rate (estimated percent of workers receiving an FNC who are unauthorized).** This measure uses model-based estimates in Exhibit 2 to estimate the percent of FNC cases that are unauthorized workers. The advantages of this measure are that it should be easy for our stakeholders to understand conceptually, i.e., it has face validity as a measure of accuracy, and it emphasizes accurate FNCs, which some stakeholders might prefer to a measure based on TNCs. The disadvantages are is that it requires model-based estimation and is a shift in focus from prior reports that some stakeholders might find confusing. It can be estimated from Exhibit C-2 data. Using number not located cases (see Exhibit C-4) to illustrate:

FNC accuracy rate for number not located cases =
22,810/(1,242+22,810) = 94.3 percent

**[4] TNC accuracy rate (estimated percent of workers receiving a TNC who are unauthorized).** This measure uses the model-based estimates in Exhibit C-2 to estimate the percent of TNC cases that are received by unauthorized workers. The advantages of this measure are that it should be easy for our stakeholders to understand conceptually, it has face validity as a measure of accuracy, and it emphasizes TNC inaccuracy rather than FNC inaccuracy, which is consistent to the approach used in prior reports that may be familiar to some stakeholders. The disadvantage is that it requires model-based **estimation**. Because all unauthorized workers who receive TNCs are assumed to become FNCs and the number of FNCs cannot exceed the number of TNCs, this estimate cannot be higher than the FNC accuracy rate and will usually be lower. It can be estimated from Exhibit C-2 data. Using number not located cases (see Exhibit C-4) to illustrate:

TNC accuracy rate for number not located cases =
22,810/(22,810 + 1,242 + 2,261) = 86.7 percent

**Exhibit C-4. Possible Accuracy Rates**
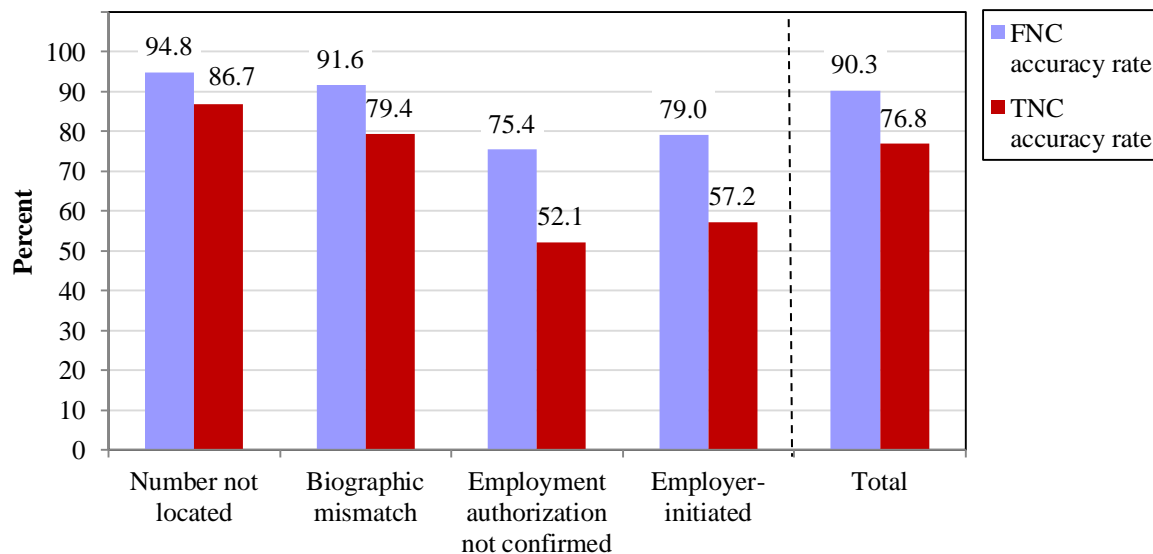
## 3. ADDITIONAL MEASURES TO BE USED IN THE REPORT

In addition to the measures discussed in Section 2, we are also planning to use some other measures in the report and/or supplemental tables:

- **Percent of USCIS nonautomated cases found work authorized at second-level review.** This measure will be used in discussions of the accuracy of the USCIS automated and second-level review processes. It can be estimated from Exhibit C-1 data. Using number not located cases (See Exhibit C-3) to illustrate again:

$$\text{Percent of USCIS nonautomated number not located cases found work authorized at second review} = 24{,}052/(2{,}261+24{,}052) = 38.6 \text{ percent}$$

- **Percent of successfully contested TNCs within a subgroup.** This measure is calculated by dividing the number of successfully contested TNCs in each category (e.g., number not located cases) by the total number of successfully contested TNCs. This rate is dependent upon both the accuracy of cases in the subgroup and the size of the subgroup. We plan to use this in discussing the cost-effectiveness of alternate modifications of E-Verify. It can be estimated from Exhibit C-1 data. Using number not located cases (not included in exhibits) to illustrate:

$$\text{Percent of successfully contested number not located TNCs} = 2{,}261/(2{,}261 + 2{,}045 + 3{,}379 + 437) = 27.8 \text{ percent}$$

It should be noted that none of the above measures reflect errors in which unauthorized workers are found employment authorized. Error rates for unauthorized workers are model-based estimates based on national data and, therefore, cannot be estimated for the subgroups examined in this report.

### Addendum: Estimating the Number of Employment-Authorized Workers

Several of the rates discussed require using a model-based estimate of the number of employment-authorized workers who received FNCs. In general, this is estimated in the same way as it was in the December 2009 report. As was done in that report, it is assumed that 70 percent of employers inform their workers of TNCs and 92 percent of those informed contest the finding, i.e.,

$$.7*.92*\# \text{ of employment-authorized workers} = \# \text{ of successfully contested TNCs}$$

and, therefore:

$$\# \text{ of employment-authorized workers} = (\# \text{ of successfully contested TNCs})/(.7*.92)$$

The evaluation team made an exception for Class of Admission (COA) codes associated with an employer or school having been involved in sponsoring the worker's entry. In these situations, it was assumed that all employment-authorized workers were informed but that for one reason or another, only 92 percent chose to contest the TNC.

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# APPENDIX D. SUPPLEMENTAL TABLES

**Appendix Table D-1. Selected Accuracy Rates for All E-Verify Cases-Total**

| Categories | FNC accuracy rate | | Percent of TNCs successfully resolved | | Percent of all employment-authorized FNCs | | Percent of nonautomated cases resolved at second- or third-level review | |
|---|---|---|---|---|---|---|---|---|
| SSN mismatch | 99.9 | (0.02) | 0.22 | (0.04) | 0.17 | (0.04) | NA | |
| Name only mismatch | 75.8 | (0.35) | 30.59 | (0.30) | 32.52 | (0.43) | NA | |
| DOB only mismatch | 97.9 | (0.08) | 3.67 | (0.14) | 2.98 | (0.16) | NA | |
| DOB and name mismatch | 99.9 | (0.01) | 0.18 | (0.02) | 0.55 | (0.07) | NA | |
| Attested citizenship status not confirmed | 84.0 | (0.21) | 22.59 | (0.23) | 35.20 | (0.44) | NA | |
| | ====== | ====== | ====== | ====== | ====== | ====== | ====== | |
| **Total SSA** | **94.1** | (0.05) | 9.75 | (0.07) | **71.43** | (0.41) | NA | |
| | | | | | | | | |
| A-number not found | 95.5 | (0.18) | 7.58 | (0.28) | 3.15 | (0.16) | 32.89 | (0.05) |
| I-94 number not found | 6.3 | (4.22) | 63.04 | (1.02) | 6.47 | (0.22) | 86.84 | (0.07) |
| Multiple numbers not found | 99.4 | (0.05) | 1.10 | (0.09) | 0.76 | (0.08) | 38.45 | (0.02) |
| Name only problems, total | 94.5 | (0.18) | 9.10 | (0.27) | 4.91 | (0.20) | 40.19 | (0.06) |
| DOB only problems, total | 67.5 | (1.57) | 37.20 | (1.11) | 3.24 | (0.16) | 75.33 | (0.05) |
| DOB and name problems, total | 89.6 | (0.70) | 15.89 | (0.89) | 1.23 | (0.10) | 44.83 | (0.03) |
| DHS records show worker is a U.S. citizen | 89.6 | (4.58) | 15.91 | (5.51) | 0.03 | (0.02) | 96.56 | (0.01) |
| Unclear immigration status: student | 76.3 | (1.28) | 73.67 | (1.01) | 0.99 | (0.09) | 96.45 | (0.03) |
| Unclear immigration status: cultural exchange visitor | 80.7 | (1.35) | 69.57 | (1.41) | 0.53 | (0.07) | 95.64 | (0.02) |
| Unclear immigration status: other | 90.9 | (1.40) | 51.78 | (3.56) | 0.07 | (0.02) | 85.76 | (0.01) |
| Unknown immigration status (ISRS case) | 57.8 | (2.44) | 43.42 | (1.39) | 2.54 | (0.14) | 75.97 | (0.04) |
| Employment-authorization expired | 94.9 | (0.25) | 8.54 | (0.37) | 2.18 | (0.13) | 65.14 | (0.04) |
| Immigration status indicates worker is not employment-authorized | 92.8 | (0.76) | 11.54 | (1.07) | 0.47 | (0.06) | 41.64 | (0.02) |
| Photo Matching Tool mismatch | 98.3 | (0.56) | 3.05 | (0.95) | 0.05 | (0.02) | 3.05 | (0.01) |
| Employer referred case for further review after receiving a response of employment authorization (presumably based on name) | 71.6 | (1.73) | 34.05 | (1.34) | 1.96 | (0.13) | 95.03 | (0.04) |
| | ====== | ====== | ====== | ====== | ====== | ====== | ====== | ====== |
| **Total USCIS Cases** | **92.6** | (0.28) | 14.99 | (0.15) | **28.57** | (0.41) | 63.83 | (0.13) |
| | | | | | | | | |
| **Total SSA and USCIS** | **93.7** | (0.11) | 11.08 | (0.07) | **100.00** | (0.00) | 76.06 | (0.00) |

NA = not applicable.

DOB = date of birth.

NOTE: Number in parentheses is standard error.

**Appendix Table D-2. Selected Accuracy Rates for All Citizens**

| Categories | FNC accuracy rate | | Percent of TNCs successfully resolved | | Percent of all employment-authorized FNCs | | Percent of nonautomated cases resolved at second- or third-level review |
|---|---|---|---|---|---|---|---|
| SSN mismatch | 99.7 | (0.06) | 0.54 | (0.10) | 0.15 | (0.04) | NA |
| Name only mismatch | 72.9 | (0.44) | 33.01 | (0.35) | 29.23 | (0.44) | NA |
| DOB only mismatch | 97.4 | (0.12) | 4.46 | (0.20) | 2.39 | (0.15) | NA |
| DOB and name mismatch | 99.8 | (0.02) | 0.39 | (0.04) | 0.39 | (0.06) | NA |
| Attested citizenship status not confirmed | 86.4 | (0.19) | 19.83 | (0.22) | 32.71 | (0.45) | NA |
| | ====== | ====== | ====== | ====== | ====== | | NA |
| **Total SSA** | **90.4** | (0.09) | 14.89 | (0.12) | **64.87** | (0.46) | NA |
| | ====== | ====== | ====== | ====== | ====== | | ====== |
| | | | | | | | |
| **Total SSA and USCIS** | **94.3** | (0.10) | 11.08 | (0.07) | **100.00** | (0.00) | NA |

NA = not applicable.

DOB=date of birth.

NOTE: Number in parentheses is standard error.

**Appendix Table D-3. Selected Accuracy Rates for All Noncitizens**

| Categories | FNC accuracy rate | | Percent of TNCs successfully resolved | | Percent of all employment-authorized FNCs | | Percent of nonautomated cases resolved at second- or third-level review | |
|---|---|---|---|---|---|---|---|---|
| SSN mismatch | 100.0 | (0.01) | 0.07 | (0.02) | 0.12 | (0.05) | NA | |
| Name only mismatch | 83.6 | (0.53) | 22.94 | (0.56) | 16.52 | (0.57) | NA | |
| DOB only mismatch | 98.6 | (0.11) | 2.47 | (0.18) | 2.25 | (0.23) | NA | |
| DOB and name mismatch | 100.0 | (0.01) | 0.09 | (0.01) | 0.53 | (0.11) | NA | |
| Attested citizenship status not confirmed | NA | | NA | | NA | | NA | |
| | ====== | ====== | ====== | ====== | ====== | ====== | ====== | ====== |
| **Total SSA** | **98.8** | (0.03) | 2.09 | (0.05) | **19.41** | (0.61) | NA | |
| | | | | | | | | |
| A-number not found | 95.5 | (0.18) | 7.58 | (0.28) | 8.89 | (0.44) | 32.89 | (0.08) |
| I94 number not found | 6.3 | (4.22) | 63.04 | (1.02) | 18.24 | (0.59) | 86.84 | (0.11) |
| Multiple numbers not found | 99.4 | (0.05) | 1.10 | (0.09) | 2.14 | (0.22) | 38.45 | (0.04) |
| Name only problems, total | 94.5 | (0.18) | 9.10 | (0.27) | 13.85 | (0.53) | 40.19 | (0.10) |
| DOB only problems, total | 67.5 | (1.57) | 37.20 | (1.11) | 9.14 | (0.44) | 75.33 | (0.08) |
| DOB and name problems, total | 89.6 | (0.70) | 15.89 | (0.89) | 3.48 | (0.28) | 44.83 | (0.05) |
| DHS records show worker is a U.S. citizen | 89.6 | (4.58) | 15.91 | (5.51) | 0.09 | (0.05) | 96.56 | (0.01) |
| Unclear immigration status: student | 76.3 | (1.28) | 73.67 | (1.01) | 2.78 | (0.25) | 96.45 | (0.05) |
| Unclear immigration status: cultural exchange visitor | 80.7 | (1.35) | 69.57 | (1.41) | 1.48 | (0.19) | 95.64 | (0.03) |
| Unclear immigration status: other | 90.9 | (1.40) | 51.78 | (3.56) | 0.20 | (0.07) | 85.76 | (0.01) |
| Unknown immigration status (ISRS case) | 57.8 | (2.44) | 43.42 | (1.39) | 7.17 | (0.40) | 75.97 | (0.07) |
| Employment authorization expired | 94.9 | (0.25) | 8.54 | (0.37) | 6.15 | (0.37) | 65.14 | (0.07) |
| Immigration status indicates worker is not employment-authorized | 92.8 | (0.76) | 11.54 | (1.07) | 1.32 | (0.18) | 41.64 | (0.03) |
| Photo Matching Tool mismatch | 98.3 | (0.56) | 3.05 | (0.95) | 0.13 | (0.06) | 3.05 | (0.01) |
| Employer referred case for further review after receiving a response of employment authorized (presumably based on name) | 71.6 | (1.73) | 34.05 | (1.34) | 5.53 | (0.35) | 95.03 | (0.06) |
| | ====== | ====== | ====== | ====== | ====== | | ====== | ====== |
| **Total USCIS Cases** | **92.6** | (0.28) | 14.99 | (0.15) | **80.59** | (0.61) | 63.83 | (0.11) |
| | | | | | | | | |
| **Total SSA and USCIS** | **96.4** | (0.12) | 7.63 | (0.07) | **100.00** | (0.00) | 65.01 | (0.00) |

NA = not applicable.

NOTE: Number in parentheses is standard error.

## Appendix Table D-4. Selected Accuracy Rates for LPRs

| Categories | FNC accuracy rate | | Percent of TNCs successfully resolved | | Percent of all employment-authorized FNCs | | Percent of non-automated cases resolved at second or third level review |
|---|---|---|---|---|---|---|---|
| SSN mismatch | 100.0 | (0.00) | 0.01 | (0.01) | 0.03 | (0.04) | NA |
| Name only mismatch | 85.1 | (0.53) | 21.28 | (0.59) | 28.83 | (1.02) | NA |
| DOB only mismatch | 98.9 | (0.10) | 1.97 | (0.17) | 3.63 | (0.42) | NA |
| DOB and name mismatch | 100.0 | (0.01) | 0.06 | (0.01) | 0.70 | (0.19) | NA |
| Attested citizenship status not confirmed | NA | | NA | | NA | | NA |
| | ====== | ====== | ====== | ====== | ====== | ====== | ====== |
| **Total SSA** | **99.0** | (0.03) | 1.74 | (0.05) | **33.19** | (1.06) | NA |
| | | | | | | | |
| A-number not found | 97.3 | (0.15) | 4.67 | (0.24) | 10.00 | (0.68) | 21.54 | (0.11) |
| I-94 number not found | NA | | NA | | NA | | NA |
| Multiple numbers not found | 99.4 | (0.05) | 1.08 | (0.09) | 4.36 | (0.46) | 37.13 | (0.08) |
| Name only problems, total | 96.2 | (0.15) | 6.41 | (0.25) | 17.85 | (0.86) | 34.95 | (0.14) |
| DOB only problems, total | 72.0 | (1.67) | 33.74 | (1.31) | 12.27 | (0.74) | 71.27 | (0.12) |
| DOB and name problems, total | 91.5 | (0.68) | 13.46 | (0.92) | 5.14 | (0.50) | 37.31 | (0.08) |
| DHS records show worker is a U.S. citizen | 88.0 | (5.42) | 17.95 | (6.15) | 0.20 | (0.10) | 96.87 | (0.02) |
| Unclear immigration status: student | NA | | NA | | NA | | NA |
| Unclear immigration status: cultural exchange visitor | NA | | NA | | NA | | NA |
| Unclear immigration status: other | NA | | NA | | NA | | NA |
| Unknown immigration status (ISRS case) | 96.5 | (1.07) | 6.03 | (1.69) | 0.34 | (0.13) | 7.43 | (0.02) |
| Employment-authorization expired | 94.1 | (0.43) | 9.68 | (0.64) | 5.81 | (0.53) | 59.58 | (0.09) |
| Immigration status indicates worker is not employment authorized | 97.6 | (0.47) | 4.13 | (0.78) | 0.75 | (0.20) | 28.91 | (0.03) |
| Photo Matching Tool mismatch | 98.2 | (0.58) | 3.17 | (0.99) | 0.28 | (0.12) | 3.17 | (0.02) |
| Employer referred case for further review after receiving a response of employment authorized (presumably based on name) | 74.0 | (1.72) | 32.08 | (1.41) | 9.81 | (0.67) | 94.78 | (0.11) |
| | ====== | ====== | ====== | ====== | ====== | ====== | ====== | ====== |
| **Total USCIS Cases** | **96.4** | (0.20) | 6.10 | (0.12) | **66.81** | (1.06) | 49.40 | (0.17) |
| | | | | | | | | |
| **Total SSA and USCIS** | **98.1** | (0.09) | 3.34 | (0.05) | **100.00** | (0.00) | 51.03 | 0.00 |

NA = not applicable.

NOTE: Number in parentheses is standard error.

**Appendix Table D-5. Selected Accuracy Rates for Other Noncitizens**

| Categories | FNC accuracy rate | | Percent of TNCs successfully resolved | | Percent of all employment-authorized FNCs | | Percent of nonautomated cases resolved at second- or third-level review | |
|---|---|---|---|---|---|---|---|---|
| SSN mismatch | 99.3 | (0.23) | 1.17 | (0.41) | 0.17 | (0.08) | NA | |
| Name only mismatch | 71.4 | (2.32) | 34.22 | (1.78) | 5.28 | (0.44) | NA | |
| DOB only mismatch | 94.2 | (0.93) | 9.52 | (1.37) | 0.95 | (0.19) | NA | |
| DOB and name mismatch | 99.5 | (0.11) | 0.82 | (0.20) | 0.35 | (0.12) | NA | |
| Attested citizenship status not confirmed | NA | | NA | | NA | | NA | |
| | ====== | ====== | ====== | ====== | ====== | ====== | ====== | ====== |
| **Total SSA** | **95.1** | (0.29) | 8.20 | (0.44) | **6.75** | (0.50) | | |
| | | | | | | | | |
| A-number not found | 83.0 | (1.09) | 23.67 | (1.14) | 7.11 | (0.51) | 66.41 | (0.12) |
| I-94 number not found | 6.3 | (4.22) | 63.04 | (1.02) | 30.47 | (0.91) | 86.84 | (0.21) |
| Multiple numbers not found | 99.1 | (0.29) | 1.54 | (0.51) | 0.19 | (0.09) | 59.56 | (0.02) |
| Name only problems, total | 82.6 | (0.97) | 24.02 | (1.01) | 9.32 | (0.58) | 61.44 | (0.13) |
| DOB only problems, total | 55.5 | (3.80) | 44.72 | (2.03) | 5.77 | (0.46) | 81.99 | (0.11) |
| DOB and name problems, total | 80.6 | (2.53) | 26.07 | (2.43) | 1.84 | (0.27) | 65.27 | (0.06) |
| DHS records show worker is a U.S. citizen | 100.0 | (0.00) | 0.00 | (0.00) | 0.00 | (0.00) | 90.74 | (0.00) |
| Unclear immigration status: student | 76.3 | (1.28) | 73.67 | (1.01) | 4.65 | (0.42) | 96.45 | (0.10) |
| Unclear immigration status: cultural exchange visitor | - | (98.84) | 11.65 | (0.40) | 12.79 | (0.66) | 958.68 | (0.15) |
| Unclear immigration status: other | 90.9 | (1.40) | 51.78 | (3.56) | 0.34 | (0.12) | 85.76 | (0.03) |
| Unknown immigration status (ISRS case) | 44.3 | (3.50) | 50.32 | (1.52) | 11.72 | (0.64) | 80.91 | (0.15) |
| Employment-authorization expired | 95.3 | (0.30) | 7.83 | (0.46) | 5.77 | (0.46) | 67.87 | (0.11) |
| Immigration status indicates worker is not employment-authorized | 73.4 | (3.92) | 32.61 | (3.09) | 1.62 | (0.25) | 66.16 | (0.06) |
| Photo Matching Tool mismatch | 100.0 | (0.00) | 0.00 | (0.00) | 0.00 | (0.00) | 0.00 | (0.00) |
| Employer referred case for further review after receiving a response of employment authorized (presumably based on name) | 50.3 | (8.51) | 47.50 | (3.95) | 1.64 | (0.25) | 96.48 | (0.06) |
| | ====== | ====== | ====== | ====== | ====== | | ====== | ====== |
| **Total USCIS Cases** | **74.4** | (10.46) | 38.26 | (0.40) | **93.25** | (0.50) | 94.69 | (0.11) |
| | | | | | | | | |
| **Total SSA and USCIS** | **80.1** | (6.72) | 32.17 | (0.34) | **100.00** | (0.00) | 95.34 | (0.00) |

NA = not applicable.

NOTE: Number in parentheses is standard error.