

BASIC PILOT/E-VERIFY REALITY CHECK

Businesses Challenge DHS's Claims

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An official in the U.S. Department of Homeland Security (DHS) recently described using Basic Pilot/E-Verify as “a bit less burdensome than ordering books for the first time from Amazon.com.”¹ But that’s not what U.S. businesses report. Here’s a sample of their real-life experiences using the program.

■ On the database accuracy rates:

DHS claims that only 0.5% of work-authorized employees receive a tentative nonconfirmation (TNC).² But businesses that use the program say:

- Queries submitted to Basic Pilot/E-Verify by Intel Corporation in 2008 resulted in slightly over 12% of all workers receiving a TNC. All of these workers were cleared by Basic Pilot/E-Verify as work-authorized, but “only after significant investment of time and money, lost productivity and, for our affected foreign national staff, many hours of confusion, worry and upset.”³
- A large multinational employer reported that 15% of queries it submitted to Basic Pilot/E-Verify between January 1, 2008, and May 22, 2008, resulted in a TNC. Of the DHS TNCs, approximately 80% required personal attention to resolve, at a great cost to the employer.⁴
- MCL Enterprises, a company that owns 24 Burger King restaurants in Arizona, reports that over 14% of queries to Basic Pilot/E-Verify result in a TNC, and the rate for foreign-born workers is 75%.⁵

■ On correcting database errors:

DHS claims that it should take an employer 5 minutes to examine the TNC and print out a copy for the worker, and 10 minutes for the employer and worker to sign the form.⁶ DHS also estimates that it takes 8 hours on average to resolve a TNC with the Social Security Admini-

stration (SSA).⁷ But businesses that use the program say:

- DHS’s estimate regarding resolution of TNCs assumes a small single-site employer where there is face-to-face interaction with workers, according to the American Council of International Personnel (ACIP). ACIP members rarely work this way, and it is “not unusual” for 24 hours to pass before the worker receives the TNC. Once a TNC is delivered, ACIP members routinely spend more than 30 minutes with the worker.⁸
- ACIP members also report that corrections at SSA usually take in excess of 90 days, and that workers must wait 4 or more hours per trip, with repeated trips to SSA frequently required to get their records corrected.⁹
- Intel reports that each TNC requires at least 30 minutes in direct consultation with each affected worker, as well as government agents, to resolve. If Intel’s nearly 13% TNC rate for new hires were extrapolated to its existing workforce, Intel estimates the need for “thousands of additional personnel-hours to manage the additional TNC’s.”¹⁰

■ On the costs and burden of using Basic Pilot/E-Verify:

According to a DHS official, “Anyone who has seen it done once can do it, and the process takes a few minutes. Understanding the rules that go with the process requires a bit of online training, but that takes at most an hour or two.”¹¹ But businesses that use the program say:

- “The reason 99 percent of American employers have not enrolled in Basic Pilot/E-Verify is *not* because they are hiring undocumented workers or shirking their employment verification responsibilities, but rather because Basic Pilot/E-Verify enrollment is not easy or efficient for a large employer,” according to ACIP.¹²



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- MCL Enterprises recently registered to use Basic Pilot/E-Verify as a result of the Arizona law requiring all employers to use the system and found the transition to Basic Pilot/E-Verify “extremely costly” and “disruptive” to operations.¹³
- An ACIP member with 50,000 U.S. employees recently outsourced Basic Pilot/E-Verify to a vendor after 18 months of planning. The company made the decision that verification was not a core business function and that verification of its dispersed workforce was best handled by another organization with expertise in this complex legal area. The annual tab for this service is \$40,000 per year.¹⁴
- Other ACIP members report that it takes 3 to 4 hours for each staff person to register, understand the requirements, and take the tutorial. “For those with

multiple hiring sites, or where the Basic Pilot/E-Verify function is spread across the country, the costs would need to be multiplied to account for several staff members at each location as well as training and coordination of policies and practices across locations.”¹⁵

■ Conclusion:

Currently, only approximately 1% of employers nationwide are enrolled in Basic Pilot/E-Verify, and of those only an estimated half actually use it regularly.¹⁶ But DHS is doing everything under its power to expand the program, regardless of the costs and burdens for businesses and workers. Common sense demands a reality check on the effectiveness and costs of the program as it actually operates before it is expanded any further.

FOR MORE INFORMATION, CONTACT

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NOTES

¹ Stewart Baker, “Debunking Three More Basic Pilot/E-Verify Myths,” *Leadership Journal: The Blog of the Department of Homeland Security*, June 2, 2008, [www.dhs.gov/journal/leadership/labels/Basic Pilot/E-Verify.html](http://www.dhs.gov/journal/leadership/labels/Basic%20Pilot/E-Verify.html) (last visited Oct. 21, 2008).

² Employers receive a “tentative nonconfirmation” (TNC) notice from either SSA or DHS when the agencies are unable to automatically confirm a worker’s employment eligibility. A TNC notice is not an indication of an immigration violation, and workers have the right to contest the finding with the appropriate agency. For information on the DHS statistic, see Jonathan Scharfen, *Written Testimony Before the Subcommittee on Social Security, Committee on Ways and Means, House of Representatives: “Electronic Employment Verification Systems: Needed Safeguards To Protect Privacy And Prevent Misuse”* (U.S. Citizenship and Immigration Services, June 10, 2008), www.uscis.gov/files/pressrelease/testimony.pdf.

³ Intel Corporation, “Comments on Proposed Employment Eligibility Regulations Implementing Executive Order 12989 (as amended),” Aug. 8, 2008.

⁴ American Council on International Personnel (hereinafter “ACIP”), “Comments on Proposed Rule Published at 73 Fed. Reg. 33374 (June 12, 2008),” Aug. 11, 2008.

⁵ Mitchell C. Laird, *Testimony Before the Subcommittee on Social Security, Committee on Ways and Means, House of Representatives: “Employment Eligibility Verification*

Systems (EEVS) and the Potential Impacts on the Social Security Administration’s (SSA’s) Ability to Serve Retirees, People with Disabilities, and Workers” (MCL Enterprises, Inc., May 6, 2008), <http://waysandmeans.house.gov/media/pdf/110/laird.pdf>.

⁶ Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council, *Regulatory Impact Analysis; Employment Eligibility Verification* (Federal Acquisition Regulation Case 2007-013, May 29, 2008), at 34.

⁷ *Id.*, at 35.

⁸ Intel Corporation.

⁹ ACIP.

¹⁰ Intel Corporation, emphasis added.

¹¹ Baker.

¹² ACIP, emphasis added.

¹³ Laird, emphasis added.

¹⁴ ACIP.

¹⁵ *Id.*, emphasis added.

¹⁶ Richard M. Stana, *Testimony Before the Subcommittee on Social Security, Committee on Ways and Means, House of Representatives: Employment Verification: Challenges Exist in Implementing a Mandatory Electronic Employment Verification System* (GAO-08-729T, Government Accountability Office, May 2008), <http://waysandmeans.house.gov/media/pdf/110/gao5608.pdf>.