



Handbook

For Clients of Designated Agents

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INTRODUCTION

Welcome to E-Verify! Using E-Verify is an important step in ensuring that your company has a legal workforce. We are here to support you and provide you and your company with the tools and understanding to get the most out of the benefits of E-Verify.

This handbook will assist you in using E-Verify as the client of a designated agent.

About Designated Agents

Designated agents use E-Verify to confirm the employment eligibility of another company's employees. Designated agents frequently offer E-Verify along with other services, such as background checks, legal assistance and accounting services. Designated agents may also handle payroll and other administrative tasks that include managing the process of completing Form I-9, Employment Eligibility Verification.

While the U.S. Department of Homeland Security offers E-Verify as a free service, designated agents may charge fees to their clients for using E-Verify. We do not certify designated agents nor do we regulate the fees they charge.

Why Use a Designated Agent?

Companies that choose to participate in E-Verify have the option to have a designated agent use E-Verify on their behalves. Companies big and small use designated agents for many reasons, including:

- ▶ They do not have the equipment, such as a computer or Internet access, to use E-Verify themselves.
- ▶ They do not have the staff or the time to use E-Verify.
- ▶ They outsource their Form I-9 process or use an employment verification service that also offers E-Verify.

GETTING STARTED

If you have decided to enroll in E-Verify and want to use a designated agent, there are several steps you must take. Before you enroll, you must decide:

- ▶ Who will sign the E-Verify Memorandum of Understanding (MOU) on behalf of your company.
- ▶ Which hiring sites will participate in E-Verify.

Preparing for E-Verify

E-Verify offers companies flexibility on how to implement its use. You may choose to use E-Verify throughout your company or limit your company's participation to certain offices. While you are free to choose E-Verify participation on a site-by-site basis, your company must use E-Verify for all newly hired employees at each participating site.

While E-Verify offers your company this flexibility, other laws and regulations may be more restrictive. For example, some states require companies to use E-Verify at all sites within that particular state. During enrollment, you'll need to decide the number of hiring sites in each state that will participate in E-Verify.

When determining how to implement E-Verify within your company, first review how your company processes its employees' Forms I-9:

- ▶ When do employees complete Form I-9? (i.e. on their first day, after hire but before their first day)
- ▶ How does your company transmit Form I-9 to your designated agent?

About Hiring Sites

Hiring sites are locations where your company's employees are hired. Typically, a hiring site is where an employee completes Form I-9.

Enrolling in E-Verify

Your designated agent will enroll your company in E-Verify as a client company under its E-Verify designated agent account. In order for your designated agent to enroll your company, you will need to provide to your designated agent:

- ▶ Your company name
- ▶ The physical address of the location from which your company will access E-Verify (including county)
- ▶ Your company mailing address
- ▶ Your Employer Identification Number (also called a Federal Tax ID Number)
- ▶ Total number of employees for all of your company's hiring sites that will participate in E-Verify
- ▶ The first three digits of your company's primary North American Industry Classification System (NAICS) code
- ▶ The number of hiring sites that will participate in E-Verify in each state

- ▶ Whether your company is a federal contractor or a federal, state or local government organization and whether you are enrolling your company to comply with the Federal Acquisition Regulation
- ▶ Contact information for your company's E-Verify MOU signatory (name, phone number, fax number and e-mail address)

If any of the above information changes while your company is enrolled in E-Verify, you must notify your designated agent as it is responsible for managing your account in E-Verify.

E-Verify Memorandum of Understanding (MOU)

You and your designated agent must agree to and follow the rules and responsibilities set forth in the E-Verify MOU. Your company must acknowledge and sign the client company version of the E-Verify MOU. Your designated agent will provide you with the E-Verify MOU during your enrollment.

The MOU is a legal document that an authorized representative of your company must sign. Typically, the MOU signatory is a business owner, company president, human resources director or legal counsel. By signing the MOU, the MOU signatory is committing your company to complying with the terms of the MOU. Be sure to review it carefully before signing.

After your company representative has signed the MOU, return it to your designated agent and keep a copy for your records. Your E-Verify enrollment cannot be completed until E-Verify receives your signed MOU.

USING E-VERIFY

There is no single set of procedures in place for designated agents and their clients to implement E-Verify. It is important that you get instructions from your designated agent on how to best follow its E-Verify processes.

Upon enrollment, your designated agent will provide you with a copy of the E-Verify User Guide, and three posters that you must display to all prospective employees. Your company is required to print and clearly display the "Notice of E-Verify Participation" in both English and Spanish and the "Right to Work Poster." Your designated agent must provide you with these posters. Notices or posters that cannot be displayed should be printed and distributed to every job applicant.

Form I-9 Procedures

All employers must complete Form I-9 for all newly hired employees. For those employers using E-Verify, completing Form I-9 is still a requirement. When you complete Form I-9 for your company's employees, you must comply with two requirements that affect companies that participate in E-Verify:

- ▶ Your employees must provide their Social Security numbers on Form I-9.
- ▶ List B documents (documents that establish employment authorization) must contain a photograph.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) requires employers to complete the employment eligibility process within three business days of an employee's hire date. For companies that use E-Verify, the employment eligibility process includes completing both Form I-9 and E-Verify initial verification portions of the process. You must complete Form I-9 for a new employee before you can request your designated agent verify the employee's employment authorization in E-Verify.

For companies that use designated agents for E-Verify, your designated agent must complete the E-Verify initial verification within three business days of your employees' hire dates.

Privacy Statement

It is essential to protect the privacy of individuals submitting information for processing through E-Verify. Since E-Verify involves collecting and using an individual's personal information, it is your responsibility to ensure that this information is safeguarded, and that it is used only for the purposes outlined in the MOU between the E-Verify Program administrators and you. Failure to properly protect individuals' information can result in identity theft or fraud and can cause considerable inconvenience, harm or embarrassment to the individuals affected. In addition, if you do not comply with the Privacy Act or other applicable laws and regulations, you may be subject to criminal penalties. At a minimum, you should take the following steps to protect personal information and comply with the appropriate regulations:

1. Allow only authorized employees to use E-Verify. Ensure that only the appropriate employees handle information and perform verification queries.
2. Secure access to E-Verify. Protect the password you use to access E-Verify and ensure that unauthorized users do not gain access to the system.

3. Protect and store individuals' information properly. Ensure that applicants' information is stored in a safe and secure location and that only authorized individuals have access to this information.

The Verification Process

E-Verify works by comparing the information your employees provide on Form I-9 with information from government databases. Generally, if the information matches, the employee receives an "Employment Authorized" response in E-Verify. If the information doesn't match, the employee receives a Tentative Nonconfirmation (TNC) and is given the opportunity to resolve the mismatch. If the employee does not resolve the mismatch, the employee will receive a Final Nonconfirmation (FNC), after which you may terminate employment.

Most employees have their employment authorization confirmed during the E-Verify initial verification process. Occasionally, E-Verify cannot instantly confirm employment authorization because it needs to manually review the records in government databases. For those cases requiring manual review, E-Verify will usually provide your designated agent with an initial verification result within 24-48 hours.

In some cases the information from an employee's Form I-9 doesn't match the information we have on file and your designated agent will inform you of a temporary case status that may require additional action. In these cases, E-Verify will return a response called a Tentative Nonconfirmation (TNC). A TNC means we could not confirm an employee's employment authorization. It does not mean an employee is unauthorized to work or is an illegal immigrant as there are legitimate reasons why an employee may receive this result.

Employees who receive a TNC may contest the finding and to resolve the problem with the appropriate government agency. If you have an employee who has received a TNC, you should not take adverse action against that employee. Adverse actions could include reducing work hours, delaying training or firing the employee because they received a TNC.

The process for resolving a TNC is time-sensitive and it is critical that your designated agent inform you of an employee's TNC as soon as possible. Your designated agent must provide you with the TNC notice that you must give to the employee. This notice informs the employee of the TNC result, explains what caused it and gives the employee the option to accept or contest the result.

You must review the notice with your employee and your employee must choose whether to contest the TNC. Once this is done, both you and your employee should sign and date the notice. Give a copy of the signed notice to the employee and file your copy with the employee's Form I-9.

You must inform your designated agent of your employee's decision to contest or not contest the TNC. If your employee chooses not to contest the TNC, it becomes a FNC. If your employee chooses to contest the TNC, your designated agent must provide you with a referral letter. You must give the referral letter to your employee. The referral letter gives the employee instructions on how to resolve the TNC. The employee can't resolve the TNC without this letter.

The employee has eight federal government workdays to take action. In some cases, employees can resolve the TNC by phone while other cases may require employees to visit an office in-person. The referral letter will instruct the employee whether an in-person visit is necessary.

Your designated agent must inform you of the final outcome of a TNC. If the employee successfully resolved the TNC, E-Verify will return an updated status that we have confirmed the employee's employment authorization. If the employee does not take action or is unable to prove employment authorization, E-Verify will return a "No Show" or FNC response. In rare cases, the case may be updated to a "Case in Continuance" response, which means we need additional time to confirm employment authorization. If your employee receives a "Case in Continuance," your designated agent should continue to check the employee's case status, which will be updated once we have determined the employee's employment authorization. Only after we have issued a "No Show" or FNC may you terminate an employee based on E-Verify.

You must inform your designated agent of your employment decision, whether you continue to employ or terminate the employment of an employee who received a FNC. Your designated agent must have this information in order to close the employee's case in E-Verify.

E-Verify Photo Matching

E-Verify includes photo matching for selected documents presented with Form I-9 to help combat document fraud. If your employee presents either a Permanent Resident Card (or Green Card) (Form I-551) or an Employment Authorization Document (Form I-766), your designated agent must complete photo matching during the verification process. Photo matching requires your designated agent to confirm that the photo from the document presented matches identically the photo that appears in E-Verify. This step confirms that the document the employee presented has not been altered with a different photo.

Because E-Verify photo matching compares the photo on the document to the photo that appears on the screen in E-Verify, your designated agent does not need to physically see the employee. Your designated agent will need a clear copy of the document in order to make the comparison. Your designated agent will instruct you on how to provide this information. We recommend you make copies of all documents presented, rather than just the documents used for photo matching, to protect yourself against discrimination complaints.

Changing Designated Agents

If you decide to change your designated agent, there are few steps to keep in mind:

1. You should select a new designated agent. Once you've selected one and established a relationship with it, they must enroll your company as a client under its E-Verify designated agent account.
2. Once your company's enrollment has been approved, you may begin using your new designated agent. You may need to continue to work with your former designated agent to resolve any open cases, such as those with statuses of TNC or case in continuance.

3. Your former designated agent must close your client account after all of your company's open cases have been resolved. E-Verify will send an e-mail to your former designated agent confirming that your client account is closed. The e-mail instructs your former designated agent to provide you a copy of the confirmation for your records.
4. After the account is closed, you will no longer have access to the cases run by that designated agent, nor can the cases be transferred to your new one. If you want access to your case information, we recommend asking your designated agent to print a report of your cases before ending your relationship with it.

Using E-Verify without a Designated Agent

If you decide to use E-Verify without a designated agent, there are a few steps to follow:

1. You should enroll your company separately in E-Verify. In most cases, you should enroll in E-Verify employer access. You may have to call E-Verify Customer Support and have the enrollment request manually approved. This is because we compare new enrollment requests against our list of participating companies and manually review any requests that appear to be duplicates.
2. Once your company's enrollment has been approved, you may begin using E-Verify. You may need to continue to work with your former designated agent to resolve any open cases, such as those with statuses of TNC or case in continuance.
3. Your former designated agent must close your client account after all of your company's open cases have been resolved. E-Verify will send an e-mail to your former designated agent confirming that your client account is closed. The e-mail instructs your former designated agent to provide you a copy of the confirmation for your records.
4. After the account is closed, you will no longer have access to the cases run by that designated agent, nor can the cases be transferred to your E-Verify account. If you want access to your case information, we recommend asking your designated agent to print a report of your cases before ending your relationship with it.

Ending Your E-Verify Participation

If you would like to end your participation in E-Verify for any reason, you must make your request through your designated agent. You may need to continue to work with your designated agent to resolve any open cases, such as those with statuses of TNC or case in continuance. Your designated agent must close any open cases for your company before it can submit a termination request in E-Verify on your behalf. It usually takes us 48 hours to process a request for termination after your designated agent has submitted it. Once we approve the request, we will send your designated agent an e-mail confirming that we have terminated your company's participation in E-Verify. The e-mail instructs your designated agent to provide you with a copy of the confirmation for your records.

Contact Us

Questions about E-Verify? We're here to help. You can find answers to many common questions on our website at www.dhs.gov/E-Verify, and we're always just a phone call or e-mail away if you need us.

E-Verify Customer Support

E-Verify Customer Support is available to assist you with using E-Verify, resetting your password and managing cases. We can also answer your questions about E-Verify policies and procedures, Form I-9 and employment eligibility. We are available Monday through Friday, from 8 a.m. to 5 p.m. local time, except on federal holidays.

For Employers: 888-464-4218
877-875-6028 (TTY)
E-Verify@dhs.gov

For Employees: 888-897-7781
877-875-6028 (TTY)
E-Verify@dhs.gov

Our normal response time for e-mail inquiries is two business days. If we need more time to respond to your inquiry, we'll contact you within two business days to explain why we need additional time and provide you with an estimated response time.

Office of Special Counsel for Immigration, Related Unfair Employment Practices (OSC)

OSC is available to answer your questions about immigration or employment-related discrimination.

Employer Hotline: 800-255-8155
800-362-2735 (TTY)

Employee Hotline: 800-255-7688
800-237-2515 (TTY)

Website: www.justice.gov/crt/osc/