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November 2024 Immigration Update

The Future of Employment Verification: E-Verify+

E-Verify+ is a new voluntary government tool designed to simplify verification of workplace eligibility. It enhances the existing E-Verify web-based system by combining Form I-9 and E-Verify into one digital process. The goal of the new system is to provide benefits for employers and employees alike.

Currently, only Employer Access (web browser user) accounts with an active program administrator can use E-Verify+ during the pilot stage. Additional account types will be able to access E-Verify+ in the future as U.S. Citizenship and Immigration Services (USCIS) continues to incrementally release E-Verify+ throughout 2024. E-Verify+ is currently not available for E-Verify Employer Agents, Web Services, or Federal Contractors with the Federal Acquisitions Regulation E-Verify Clause.

About E-Verify and E-Verify+

E-Verify is managed by the Department of Homeland Security (DHS) and the Social Security Administration (SSA). It is used to verify the work authorization of new hires, which is required by law. Employers participating in E-Verify enter information from the I-9 Employment Eligibility Verification Form into the E-Verify system to receive near-instant confirmation of work eligibility from the government.

Although E-Verify operates independently of the mandatory Form I-9 verification, it involves similar steps. Employers criticized the redundancy because they must manually enter information from employee-provided documents into both the I-9 and E-Verify systems.

With the introduction of E-Verify+ (formerly known as E-Verify NextGen), DHS and SSA aim to reduce this burden by merging the I-9 and E-Verify processes into a single, streamlined system. Employers can manage their E-Verify and E-Verify+ cases from one

location: their E-Verify account.

How Do Employers Use E-Verify+?

Like the original system, E-Verify+ is free to use with 24-hour secure access and requires no special software. Employers will have access to E-Verify+ in their already-established E-Verify account, which will display an invitation if applicable. To access the Form I-9 process within E-Verify+, employers must simply accept the E-Verify+ Terms of Service (a legally binding contract), watch a required video, and attest they watched the required video in E-Verify.

Once an employee has accepted a job offer, an employer may create an E-Verify+ case up to 90 days before the employee's start date. When an employer chooses to use the E-Verify+ service, a unique link is emailed to the employee with instructions on how to use E-Verify+. Through their secured myUSCIS account, employees use that link to access the system to share their personal information and documentation electronically with their employer.

Enhancements and Logistics of E-Verify+

Notably, the new system allows employees to enter and upload their own information and documents for the I-9 electronically from any computer, tablet, or mobile device. Additionally, employees will select and upload the type of I-9 documentation they choose, which employers will download from the company's account, resulting in increased efficiency. Finally, online instructions and real-time feedback will guide employees to provide the correct documents. This may decrease the risk of discrimination allegations against employers in the I-9 process and reduce confusion and delay for employees.

After the employee enters information and uploads images of List A / B / C documentation, Section 2 of the Form I-9 will be auto-populated. Employees will receive immediate confirmation of their employment authorization or notice of discrepancies that need resolution, along with instructions for further action, if applicable.

Once the E-Verify+ inquiry is final, the system will notify both the employee and the employer of the result. The employer's account will display a "Ready for Review" status, at which point employers can review, sign, and retain the Form I-9 along with the E-Verify case information.

Importantly, even with this new process, employers must still complete the required I-9 document examination either in-person or remotely via live video interaction. For employers that conduct remote hiring, a live video interview must take place to visually see the new employee and to corroborate their documents. The employer attests to the information in Section 2 of the Form I-9 by electronically signing and dating it. The documents can then be retained by the employer by downloading or printing, whichever practice is used to retain the I-9 Forms.

Additional Benefits

There are several other benefits to E-Verify+. In most cases, employers will no longer need to deliver Further Action Notices to employees, as notifications in E-Verify+ are sent directly to employees. This speeds up the process and allows for more efficient resolution of discrepancies. In the event of a "Tentative Nonconfirmation," employees will receive information about the needed steps to confirm employment eligibility.

Another benefit for workers is the option to share their employment eligibility status with new employers who participate in E-Verify+, generally eliminating the need to repeat the employee's portion of the I-9 verification process for each new job. This is expected to reduce the time employers spend on new E-Verify cases.

Looking to the Future

E-Verify+ is not mandatory and will not replace E-Verify. Instead, E-Verify+ will work in conjunction with E-Verify by delivering an integrated Form I-9 and E-Verify Process. Employers who participate in E-Verify+ can use both processes.

According to USCIS, employers may determine which is best on a case-by-case basis. Employers, however, may not direct or use one

process over another for a discriminatory purpose, such as by directing certain employees to use E-Verify+ based on citizenship, immigration status or national origin. Participating employers may select whether to create an E-Verify+ case to complete their Form I-9 and employment verification together, or create a traditional E-Verify case after Sections 1 and 2 of Form I-9 are completed. Employers should consult with immigration counsel to ensure such procedures are applied in a consistent and lawful manner.

Employers can download an E-Verify+ Information Sheet for Employers at the following [link](#). It contains a step-by-step breakdown of how to complete Form I-9 in E-Verify+ and outlines employer responsibilities.

It is also important to note that the E-Verify+ system provides the government with access to information and documentation it might not otherwise have. It is not clear how Immigration and Customs Enforcement (ICE) will view the E-Verify+ system, related I-9 compliance, and/or potential audits. It is anticipated the incoming Trump administration will focus heavily on I-9 compliance and enforcement. Employers should proactively review their internal I-9 procedures, whether through E-Verify, E-Verify+, or other means, to ensure compliance and be prepared for potential I-9 audits.

To determine whether using the E-Verify+ system is recommended for you, or for more information or assistance as it relates to any of the developments above, please contact the authors or any attorney with the firm's [Immigration](#) team.

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