

Electronic Alert

Volume 24, Issue 14

March 17, 2021

New E-Verify Tools Expedite Employment Eligibility Confirmation

By Paula Barran & Charlotte Hodde

There are new, free resources available from the federal government for resolving issues with confirming employment eligibility through E-Verify. When the E-Verify system detects that an employee's information submitted from the Form I-9 does not match government records, often referred to as a "mismatch," the employer will receive a Department of Homeland Security Tentative Nonconfirmation (TNC).

E-Verify employers are required to take action on TNCs for their employees within 10 federal government working days of receiving the notice. The TNC is accompanied by a Further Action Notice, explaining the specific cause of the TNC and what actions must be taken by the employee to resolve the issue.

Employers' I-9 protocols should be updated to include these two new resources for resolving TNCs:

1. The myUploads feature on the E-Verify portal allows employees to electronically upload images of their documentation as a JPEG, PNG, or PDF; and
2. Employees now have the option to call the Department of Homeland Security, instead of wait for an appointment at a Social Security field office, if the Further Action Notice indicates that a SSA "citizen mismatch" is the cause of the TNC.

Both tools are expected to help resolve TNCs more efficiently and help employers avoid keeping E-Verify cases open for significant periods of time.

Beware of the common misperceptions about TNCs when taking steps to respond. Making the assumption that the employee is undocumented might lead you to take steps or make statements that create legal liability under state and federal anti-discrimination statutes. The best practice is to privately notify the employee of the TNC and provide them with the Further Action Notice and the new free resources above to resolve the inconsistency.

For questions about the new E-Verify tools or for any other questions related to employment eligibility, contact Paula Barran or Charlotte Hodde at 503-228-0500, or at pbarran@barran.com or chodde@barran.com.