

August, 2014

## I-9 Compliance Bulletin

### E-Verify Monitoring and Compliance Steps Up Activities

Employers using E-Verify need to be aware of the fact that the way in which they administer the system is being monitored, and quite closely. While E-Verify has been around in some form since 1997 and is currently used by over 530,000 employers, the Monitoring and Compliance (M & C) group is a fairly recent addition, having been created in 2009. While the M & C group does not currently have the ability to levy fines, they have been instrumental in a rise in settlements with the Office of Special Counsel for those misusing E-Verify, as well as turning over many employers to Immigration and Customs Enforcement for a full-blown audit.

M & C's role is aimed at monitoring employer use of the system to ensure that use is in keeping with E-Verify statutes and the Memorandum of Understanding (MOU), entered into between DHS and those employers using E-Verify. M & C uses a variety of "outreach" methods designed to help employers ensure they are complying with the stated laws and guidelines. These include compliance assistance e-mails, phone calls, what are known as desk reviews, and actual on-site visits.

A desk review is not an actual audit, but does have elements to it that can often cause concern to employers. If your company has been selected for a desk review, it is indicative of some sort of perceived misuse of the system, and this is the employer's chance to bring usage into alignment with what's expected. Desk reviews will usually include an examination of E-Verify related employer documentation such as Further Action Notices and Referral Date Confirmations, E-Verify cases, and any operating procedure manuals outlining an employers' I-9 and E-Verify processes.

The M & C group also engages employers via in-person visits, known as site visits. Those selected receive a phone call or e-mail notifying them of their selection and must gather the same sorts of materials used for desk reviews. The site visits are intended to better educate those employers who have been flagged as using the E-Verify system in a non-compliant manner. Activities that could spur such visits include: late submission, improper closing of cases or having the wrong cases still open, a high number of TNC's closed as invalid (indicative of pre-screening), or multiple submissions of the same SSN over a short period of time, to name a few.

Employers will want to review their E-Verify policies and make sure that all of those who have the ability to create and/or close cases in the system are familiar with the compliance guidelines. M & C usage examinations have increasingly occurred in referrals to other enforcement groups who have the ability to levy fines or otherwise penalize those who are acting improperly.

### Bottom Line

Employers should ensure that any employee with access is well versed in the requirements of E-Verify. Equifax Workforce Solutions can help simplify E-Verify compliance through an easily-managed remote platform that helps ensure uniformity across the jurisdictions in which you do business. To learn more about how Equifax Workforce Solutions can help you stay abreast of compliance guidelines, or to receive our *E-Verify Do's and Don'ts Guidelines* send an email to [pete.krieshok@equifax.com](mailto:pete.krieshok@equifax.com), with the subject line of "I-9 Compliance Bulletin."