

INTERIM FINDINGS OF THE WEB-BASED BASIC PILOT EVALUATION

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EXECUTIVE SUMMARY

A. BACKGROUND

1. INTRODUCTION

This report is an interim report summarizing the findings to date of the evaluation of the Web Basic Pilot program, a modified version of the Basic Pilot program—one of the three pilot programs originally mandated by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA). These pilot programs were developed to test alternative types of electronic verification systems before considering the desirability and nature of any larger scale employment verification programs. On the basis of findings from prior evaluations, the pilot programs other than the Basic Pilot were terminated. The current Basic Pilot program, known as the Web Basic Pilot, incorporates a number of recommended enhancements from the evaluations of the initial pilot programs.

The focus of the current report is on the Web Basic Pilot. The report's goals are as follows:

- Determine whether the Web Basic Pilot has resulted in the improvements in the automated employment verification process that it was designed to address;
- Determine whether any unexpected problems arose in the process of implementing the new version of the Basic Pilot program; and
- Investigate further some general questions about automated employment verification programs that were not fully answered in the previous evaluations of the IIRIRA employment pilot programs.

This report includes recently collected information from Federal employees and contractors, Web Basic Pilot employers, and employees whose work authorization status was verified by the Web Basic Pilot.

2. LEGISLATIVE HISTORY

Verification of employee identity and employment authorization became a workplace standard as a result of the Immigration Reform and Control Act (IRCA) of 1986, to accompany implementation of sanctions against employers who knowingly hired unauthorized workers. A related provision was also enacted that protected employees from employer discrimination based on national origin or citizenship status.

Because of concerns about how the IRCA policies might be implemented, Congress required monitoring of the programs and a series of General Accounting Office (GAO) and Executive Branch reports on their impacts. These reports found that the new provisions had led to unintended consequences, including employer confusion and proliferation of fraudulent documents. GAO found in its 1990 report that employer sanctions had also led to a pattern of discriminatory employer practices. Recommendations ensued to improve the verification process by increasing employer education, reducing the number of documents

acceptable for verification purposes, and making the documents that could be used in the verification process more secure.

Congress also provided for the testing of alternative verification systems that might be more effective than the system provided in IRCA. The pilot programs implemented used similar procedures and the same Immigration and Naturalization Service (INS) database as the INS Systematic Alien Verification for Entitlements (SAVE) Program, which verifies the status of noncitizen applicants for certain Federal and State benefit and licensing programs.

In 1994, the Commission on Immigration Reform called for the Social Security Administration (SSA) and INS to institute a national registry combining both agencies' data for use in electronic employment verification. Although SSA and INS determined that this specific recommendation was not practical at that time, they did find it possible to test electronic verification for all newly hired employees using each agency's data separately for a small number of pilot employers. This approach to verification formed the basis for the three IIRIRA employment pilot programs.

3. DESCRIPTION OF THE WEB BASIC PILOT

The Web Basic Pilot is a voluntary national program first made available to employers in June 2004. In July 2005, the original version of the Basic Pilot was terminated, making the Web Basic Pilot the only U.S. Citizenship and Immigration Service (USCIS) electronic employment verification program available to employers.

Under the Web Basic Pilot, a USCIS I-9 form is completed for all newly hired employees. After registering for the Web Basic Pilot, signing a Memorandum of Understanding (MOU) with USCIS and SSA, and completing required online training, participating employers should perform electronic verification of every newly hired employee. To verify a newly hired employee, the employer submits information (SSN, name, date of birth, citizenship and alien status, and, if relevant, A-number) from the Form I-9 to SSA over a secure connection to the Internet. This information goes first through SSA and then, if necessary, through USCIS.

When SSA receives the data, the information is matched against the SSA database. If the SSA database does not match the employee information entered, SSA issues a tentative nonconfirmation finding. If the person claims to be a U. S. citizen and the information submitted matches the SSA information and shows that the employee has permanent work-authorization, the employer is instantaneously notified that the employee is work-authorized.

If the employee claims to be a noncitizen and the SSA database information matches the employee information, the employee information is sent to USCIS electronically. If the employee information matches USCIS information, the employer is instantaneously notified that the employee is work authorized. If the USCIS electronic check does not confirm work authorization, an Immigration Status Verifier (ISV) checks additional information available in USCIS databases to verify work authorization and provides an

electronic response to the employer within 24 hours. If the ISV cannot confirm work authorization, USCIS issues a tentative nonconfirmation finding.

When a tentative nonconfirmation is issued, employers are required to inform affected employees in writing of the finding and the right to contest the finding. If the records are straightened out, the employee is verified. If the employee does not contest the tentative nonconfirmation or fails to contact SSA or USCIS within 10 Federal working days, the Web Basic Pilot system issues a final nonconfirmation finding and, to comply with the law, the employer must terminate the worker's employment.

The primary differences between the Web Basic Pilot and the original Basic Pilot program are as follows:

- The Web Basic Pilot uses the Internet to register new employers, provide employer verification staff with training in how to use the system, and to communicate with employers.
- The training materials have been redesigned and employer staff members are now required to pass a test on the material presented in the training module prior to being permitted to use the system.
- New edit checks have been added to the system to decrease the number of employer input errors.

The Web Basic Pilot is not a static system; the Federal government has made changes to the system since its introduction in June 2004 and continues to make and plan for additional enhancements.

4. WEB BASIC PILOT EVALUATION QUESTIONS

The goals, objectives, and resulting research questions of the Web Basic Pilot evaluation, in large part, reflect the goals and objectives of the earlier evaluations:

- How well did the Federal government implement modifications to the original Basic Pilot program in developing the Web-based Basic Pilot program?
 - Were modifications of the original Basic Pilot that had been designed to better meet employer needs reflected in increased employer satisfaction?
 - Were modifications of the original Basic Pilot designed to reduce employer confusion and noncompliance with pilot requirements effective in increasing employer compliance?
- Is the Web Basic Pilot effective in meeting pilot program goals?
 - Does the Web Basic Pilot reduce employment of unauthorized workers?
 - Does the Web Basic Pilot reduce discrimination?

- Does the Web Basic Pilot protect employee civil liberties and privacy?
- Does the Web Basic Pilot prevent undue burden on employers?

B. RESEARCH METHODS FOR THE WEB BASIC PILOT STUDY

1. EVALUATION APPROACHES

Prior to the first IIRIRA pilot evaluation, a series of meetings was held at which Congressional and Federal administrators, employers, representatives of immigrant advocacy groups, and other stakeholders contributed their views on the major issues facing the pilot programs. Because of the complexity of these issues, the evaluations have used multiple approaches to obtain the information needed to answer the evaluation questions. The current evaluation of the Web Basic Pilot is more limited in scope than the original Basic Pilot evaluation. However, like the original evaluation, it uses several approaches. The evaluation components are as follows:

- A web survey of all 1,030 establishments that had signed MOUs at least one year earlier and had used the system in specified months prior to the survey;
- Analysis of Web Basic pilot system transaction data entered by employers and the Federal Government, supplemented by additional information from SSA records. This database is referred to as the transaction database in this report;
- Case studies, including on-site in-person interviews of five employers and record reviews for 371 of their employees that the transaction database indicated had received tentative nonconfirmation findings and in-person interviews of 79 of these employees;
- System testing to determine the ease of use of the Web Basic Pilot from the employer's perspective; and
- Meetings with Federal program officials knowledgeable about and experienced with the pilot programs.

Key findings from the multiple approaches were cross-checked to determine their consistency and, where possible, the reasons for any differences.

2. DATA LIMITATIONS

Survey data is always subject to inaccuracies due to a variety of factors, such as respondents' not understanding questions or not providing accurate answers for one reason or another; the survey of Web Basic Pilot employers is, of course, subject to these limitations. The case study component of the evaluation was designed to give a more in-depth understanding of the program than can be obtained from structured interviews alone rather than to be statistically representative of all employers.

Information obtained directly from the transaction database is based on all 1.3 million cases (defined as a single hiring of a specific individual by a specific employer) on that database or on specific subgroups of these cases (such as all foreign-born U.S. citizens or all noncitizens.) These may have some error resulting from merging SSA and USCIS information and removing duplicate records.

C. WAS THE WEB BASIC PILOT PROGRAM IMPLEMENTATION CONSISTENT WITH STAKEHOLDER EXPECTATIONS?

1. BACKGROUND

To answer the process evaluation questions in this section, it is necessary to have an understanding of what the system outcomes were. Exhibit 1 shows the frequency of the possible outcomes from June 2004 through March 2006. During this time, employers made over 1.3 million verification attempts, 85 percent of which were verified by SSA as being work-authorized. Another 8 percent of the cases were verified by USCIS as being individuals authorized to work. Seven percent of all verification attempts were never resolved (labeled “Final nonconfirmation by SSA” or “Final nonconfirmation by USCIS”). For these cases, the employee did not contest a tentative nonconfirmation response from SSA or USCIS either because the employees decided not to contest or because their employers did not follow the proper notification procedures. In addition, about 0.1 percent (or 299 cases) were found by USCIS to be unauthorized to work in the United States.

2. HOW WELL DID THE FEDERAL GOVERNMENT DESIGN AND IMPLEMENT THE WEB BASIC PILOT?

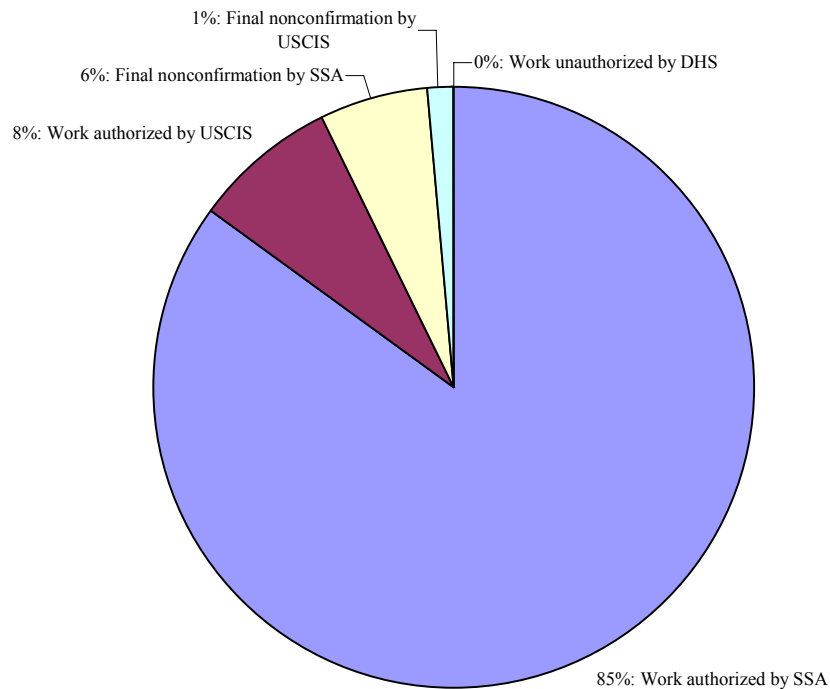
The key implementation findings related to the Federal Government’s design and implementation of the Web Basic Pilot program are as follows:

- The Web Basic Pilot instantly verified the work-authorization status of employees more frequently than did the original Basic Pilot program. In the Web Basic Pilot, 92 percent of cases were initially found to be work-authorized compared to 79 percent¹ in the original Basic Pilot.²

¹ Calculations are based on unrounded numbers, so that the rounded value of a total may not be equal to the sum of the rounded numbers. In this case, adding the unrounded values of 85 percent and 8 percent results in a value that rounds to 92 percent.

² These percentages differ from USCIS data because cases closed in error and other identified duplicate queries have been deleted.

Exhibit 1: Overall finding of outcomes from the Web-based Basic Pilot program (June 2004 through March 2006)



- The accuracy of the USCIS database used for verification has improved substantially since the start of the Basic Pilot program. However, further improvements are needed, especially if the Web Basic Pilot becomes a mandated national program – improvements that USCIS personnel report are currently underway. Most importantly, the database used for verification is still not sufficiently up to date to meet the IIRIRA requirement for accurate verification, especially for naturalized citizens. USCIS accommodates this problem by providing for manual review that is time consuming and can lead to discrimination against work-authorized foreign-born persons during the period that the verification is ongoing, especially naturalized citizens.
- The Web Basic Pilot software includes a number of new editing features, designed to reduce employer data entry errors. However, there is room for further improvements in the edit checks and in encouraging employers to double-check their data entry prior to submitting data to the system. However, it must be recognized that employee and employer data entry errors cannot be completely eliminated.
- The technical changes made in the Web Basic Pilot appear to have resulted in reduced employer burden and improved employer satisfaction. Employers expressed satisfaction with many aspects of the new features of the Web Basic Pilot. For example, almost all employers reported that the online registration process was easy to complete and that the online tutorial adequately prepared them

to use the system. Further, a large majority of the employers surveyed (88 percent) that have had experience with both the original Basic Pilot and the Web Basic Pilot reported that the benefits of the Web Basic Pilot verification system are greater than the benefits of the original Basic Pilot.

- Although the number of employers using the pilot program and the number of transactions transmitted to the system have increased since the original Basic Pilot evaluation, most U.S. employers have not volunteered to use the pilot program and some who have signed up for it have never used it, placing limitations on its effectiveness in preventing unauthorized employment on a national basis.
- Most employers using the Web Basic Pilot found it to be an effective and reliable tool for employment verification and indicated that the Web Basic Pilot was not burdensome. However, a few employers reported experiencing some difficulties with the Web Basic Pilot, such as unavailability of the system during certain times, problems accessing the system, or training new staff to do verifications using the system.
- Some employers believe that they lose their training investment as a result of electronic employment verification through the Web Basic Pilot process, since they are not allowed to take adverse actions against employees while the employees are contesting the tentative nonconfirmation finding.

3. IS ELECTRONIC EMPLOYMENT VERIFICATION THROUGH THE WEB BASIC PILOT WORKING BETTER THAN WHEN THE ORIGINAL BASIC PILOT EVALUATION WAS CONDUCTED?

Major findings about how well the Basic Pilot is working compared to the original Basic Pilot include the following:

- As expected, the Web Basic Pilot was considerably less expensive for employers to set up and operate than the original Basic Pilot program.
- Training materials and requirements to pass the tutorial were also improved from those in the original Basic Pilot. However, additional changes to the tutorial could potentially further improve its effectiveness.
- Changes to procedures for verifying noncitizens with permanent work authorization in October 2005 appear to have resulted in a desired increase in the Basic Pilot's ability to detect employees without work authorization but also an undesired increase in the erroneous tentative nonconfirmation rate. Under these changed procedures, all noncitizen cases are referred to USCIS if they have information on name and date of birth that is consistent with the SSN in SSA's records. Prior to the change, SSA was able to confirm work-authorization for these noncitizens when their records indicated that the noncitizen had permanent work-authorization.

4. HAVE EMPLOYERS GENERALLY COMPLIED WITH WEB BASIC PILOT REQUIREMENTS?

Major findings about employer compliance with the Web Basic Pilot include the following:

- The Web Basic Pilot changes appear to have increased employer compliance with program procedures compared to the original Basic Pilot program. However, the rate of employer noncompliance is still unacceptably high, which decreases the ability of the program to reduce unauthorized employment and diminishes the effectiveness of safeguards designed to protect the due process rights of work-authorized employees who obtain erroneous tentative nonconfirmations. Since work-authorized foreign-born employees are more likely than U.S. born employees to receive tentative nonconfirmation erroneously, the result is increased discrimination against foreign-born employees. The more serious types of noncompliance include the following:
 - Not all employers followed the Web Basic Pilot procedures with respect to training employees on the Web Basic Pilot system, increasing the likelihood of more serious forms of noncompliance with pilot procedures. This occurs when staff responsible for verifications circumvent the tutorial by assuming another employee's user identification information.
 - Some employers used the Web Basic Pilot to screen job applicants, which is prohibited by statute primarily due to a concern that employers would fail to hire employees receiving erroneous tentative nonconfirmations, thereby discriminating against foreign-born employees.³ However, some employers that prescreen do allow job applicants the opportunity to contest tentative nonconfirmations, mitigating the seriousness of prescreening.
 - Employers do not always follow the legal requirement to promptly terminate the employment of employees receiving final nonconfirmation findings.
 - Some employers did not notify employees of tentative nonconfirmation findings at all, did not notify employees in writing, or did not explain the process adequately to their employees, thereby making it difficult or impossible for employees to contest the finding and denying them their due process rights.
 - Some employers encouraged employees they believed not to be work-authorized to say they would contest so they could extend the length of time they worked.

³ Even when job applicants are notified of their rights to appeal, they may well experience adverse actions during the period allowed for contesting the case if applicants without tentative nonconfirmations are permitted to work during this time.

- There was evidence that a small number of Web Basic Pilot employers discouraged employees with tentative nonconfirmations from contesting, which may result in work-authorized employees unfairly losing their jobs.
- Some employers took prohibited adverse actions against employees while they were contesting tentative nonconfirmation findings. These actions included restricting work assignments, delaying training, reducing pay, or requiring them to work longer hours or in poor conditions. In the case of employers screening job applicants, delays in hiring may occur.
- Employers did not consistently post the Web Basic Pilot notice, as required, in an area where it is likely to be noticed by job applicants.
- It was not unusual for employers to fail to adhere to some procedural requirements, such as the requirement to enter closure codes. While this had little direct impact on employees, it dilutes the effectiveness of the transaction data for evaluation and monitoring purposes. For instance, the transaction database does not permit identifying cases in which employees said that they did not wish to contest the finding.
- USCIS does not currently have a strong monitoring and compliance program needed to determine whether employers are adhering to Web Basic Pilot procedures. Such a program would presumably reduce the number of employer violations. USCIS has said it plans on developing such a capability with part of the funding Congress appropriated for the program in FY 2007.

D. DID THE WEB BASIC PILOT ACHIEVE ITS PRIMARY POLICY GOALS?

1. BACKGROUND

To understand the policy implications of the Web Basic Pilot program, it is helpful to understand the program's expected effects on unauthorized employment and discrimination from the viewpoint of the IIRIRA pilot program designers.

a. UNAUTHORIZED EMPLOYMENT

The Web Basic Pilot is designed to be more effective than the paper Form I-9 process in deterring unauthorized employment. For instance, it detects counterfeit fraud in which the employee's documents contain fictitious information. However, the Web Basic Pilot cannot substantially improve employers' ability to detect fraud when borrowed or stolen documents with information that could reasonably relate to the worker presenting them are used to prove work authorization nor when employers do not check work-authorization documents carefully, either by design or because of lax procedures. It also cannot detect counterfeit documents that contain information about work-authorized persons. Thus, the Web Basic Pilot program should decrease the ease with which noncitizens without work-authorization can obtain employment but will not eliminate the employment of such workers.

b. DISCRIMINATION

In this document, discrimination is defined as adverse treatment of individuals based on group identity. In employment, discrimination refers to differential treatment based on characteristics, such as citizenship or ethnicity that are unrelated to productivity or performance. Discrimination can occur because employers intentionally treat members of a group protected by law differently than others. However, it can also occur unintentionally if employers' actions have a disparate impact on protected group members.

Compared to the Basic Pilot program, the Web Basic Pilot could potentially result in less discrimination associated with tentative nonconfirmations issued to work-authorized employees because of improvements in the tutorial and information resources available over the web that is designed to ensure that employers understand their responsibilities. Furthermore, the edit checks included in the system should reduce data entry errors that would have otherwise led to tentative nonconfirmations, decreasing the rate of erroneous tentative nonconfirmations.

2. WHAT HAS THE IMPACT OF THE WEB BASIC PILOT PROGRAM BEEN ON THE EMPLOYMENT OF UNAUTHORIZED WORKERS?

The major evaluation findings about the impact of the Web Basic Pilot on unauthorized employment are as follows:

- As expected, some employees without work authorization are found to be unauthorized to work or receive final nonconfirmations, leading to their employment being terminated, thus reducing the employment of employees without work authorization at participating employers.
- The fact that most employers do not currently use the Web Basic Pilot program diminishes the effectiveness of the program because employees found to be without work-authorization can seek employment with nonpilot employers.

3. IS THE WEB BASIC PILOT PROGRAM PROTECTING AGAINST VERIFICATION-RELATED DISCRIMINATION?

The major evaluation findings about the impact of the Web Basic Pilot on verification-related discrimination are as follows:

- Although most Web Basic Pilot users reported that the Web Basic Pilot made them neither more or less willing to hire immigrants, the percentage of employers that said they were more willing to hire immigrants was greater than the percentage saying it made them less willing, presumably leading to a net decrease in hiring discrimination against immigrants.
- As anticipated by immigrant rights advocates, foreign-born work-authorized employees are more likely to receive tentative nonconfirmations than are U.S.-born employees, thereby subjecting a greater percentage of foreign-born work-authorized employees to potential harm arising from the Web Basic Pilot process.

For U.S. born employees authorized at some point during the verification process, 0.1 percent received tentative nonconfirmations prior to verification; for foreign-born employees, the rate was 3.0 percent.

- Foreign-born U.S. citizens are considerably more likely to receive erroneous tentative nonconfirmations than are work-authorized foreign-born persons who have not become U.S. citizens. Among foreign-born employees verified by the Web Basic Pilot, the percentage of ever-authorized employees found to be work-authorized after a tentative nonconfirmation was 1.3 percent for noncitizens compared to 10.9 percent for naturalized citizens. The erroneous tentative nonconfirmation rate for naturalized citizens is unacceptably high. Reducing it will take considerable time and will require better data collection and data sharing between SSA and USCIS than is currently the case.
- Tentative nonconfirmations have negative consequences for work-authorized employees for two reasons. First, there are very real costs and burdens associated with adverse actions that some employers take against employees receiving tentative nonconfirmations, even though such adverse actions are prohibited by statute. Second, there are burdens associated with visiting an SSA office and, generally to a lesser extent, contacting USCIS.

4. HOW WELL IS THE WEB BASIC PILOT PROGRAM DOING IN SAFEGUARDING PRIVACY?

The major evaluation findings about the impact of the Web Basic Pilot on privacy are as follows:

- There is little increased risk of misuse of Web Basic Pilot information by Federal employees.
- One possible weakness of the system is that under current procedures employers joining the Web Basic Pilot are not verified against any type of listing of employers; therefore, anyone wanting access to the system could pose as an employer and get access to the system by signing an MOU. While there is no evidence that this has happened, anecdotal evidence from SSA suggests that it is a very real possibility, particularly as more employers join the program.
- Employers did not consistently convey information about Web Basic Pilot tentative nonconfirmations to employees in a private setting.

5. DOES THE WEB BASIC PILOT PROGRAM AVOID UNDUE EMPLOYER BURDEN?

The majority of employers reported that they spent \$100 or less in initial set-up costs for the Web Basic Pilot and a similar amount annually for operating the system. These costs were considerably below those for the original Basic Pilot. Furthermore, as discussed above, most employers were satisfied with the program and they reported that the benefits of using the Web Basic Pilot outweighed its disadvantages.

E. RECOMMENDATIONS FOR IMPROVING THE WEB BASIC PILOT PROGRAM

Because of the high level of interest in expanding the Web Basic Pilot, this report provides a list of recommended changes to the Web Basic Pilot program, even though the evaluation is not yet complete. It is possible that the additional data analyses planned for the final report will lead the evaluation team to revise some of the recommendations below, as well as add new recommendations. Furthermore, because of the ongoing nature of the evaluation, some of the following recommendations flow out of work that has not yet been fully incorporated into earlier chapters. The primary recommendations are as follows:

- USCIS and SSA need to address the unacceptably high tentative nonconfirmation rate for foreign-born U.S. citizens. Measures to do this include improving the interface between USCIS and SSA databases to more easily share information on naturalized citizens already on the USCIS databases as well as information about future new citizens. In the future, USCIS should collect SSNs for all persons at the time they apply for naturalization, including children who will derive citizenship from their parents' naturalization. USCIS should also work with the U.S. Department of State's Passport Agency to obtain information from them when they first document that a foreign-born person is indeed a U.S. citizen. Furthermore, the tentative nonconfirmation procedures should be modified to allow employees receiving initial SSA tentative nonconfirmations because their citizenship status could not be verified to provide their prior A-numbers so that USCIS records can be checked. Outreach efforts should also be implemented to encourage naturalized citizens to notify SSA of their change in citizenship status.
- USCIS should continue recent and proposed efforts to explore options for using the transaction database to identify employers that are not properly following Basic Pilot procedures. For example, an unusually large number of queries, given the size, industry, and location of the employer, may indicate that the employer is prescreening job applicants.
- USCIS should establish guidelines for employers that provide specific time frames for notifying employees of tentative nonconfirmations and for terminating employees subsequent to receiving final nonconfirmation or unauthorized findings. Without these specific timeframes, employers can allow the verification process to become protracted and unauthorized workers to work for extended periods, thereby reducing the effectiveness of the program.
- SSA should institute a process through which tentative nonconfirmations resulting from SSA mismatches are controlled through an automated system similar to that which USCIS uses. This would tighten SSA procedures and make SSA more accountable for providing results for cases they resolve, would decrease SSA field staff and employer burden, and make the transaction database more accurate.
- Additional changes should be made to the tutorial to further improve its effectiveness. For example, periodic retesting and, if need be, refresher training

should be used to ensure that the material has not been forgotten and to discourage the observed practice of assuming another user's name and password to avoid the tutorial and test. Training modules for staff other than system users and administrators should be developed to help prevent violations of program procedures that are the responsibility of staff other than system users. For instance, Human Resources staff may be unaware that the policies they promulgate on training or pay while tentative nonconfirmations are being contested are in violation of the MOU and the statute.

- The Web Basic Pilot System should be modified to further enhance its user-friendliness. For example, USCIS should modify the training materials and tutorial to clarify issues, such as the definition of a “new hire” that confused some of the case study employers. USCIS should make usability testing with employers a standard practice before implementing system changes to ensure that materials are clear to those who will be taking the training and using the system.
- The transaction database should be modified to capture additional information needed for evaluation and monitoring. For example, data fields should be added to permit entry of information about the resolution of cases after issuance of a final nonconfirmation.
- Efforts to integrate employers' Human Resources systems and the Web Basic Pilot system should be continued to minimize duplicate data entry by employers. For instance, the Basic Pilot could be modified to permit employers to include employee ID numbers in their query and to have that identifier returned to them with the case findings.
- Procedures for the routine automated cleaning of the transaction database should be developed to obtain more meaningful reports for management information and monitoring purposes. For example, cases which employers close as employer data entry errors should not be categorized as final nonconfirmation cases for these purposes.

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CHAPTER I. BACKGROUND

A. INTRODUCTION

This report presents preliminary results from analyzing data collected for the evaluation of the Web Basic Pilot program. Additional analyses of data already collected are planned for the final report. It is possible that some of these additional analyses will provide new insights into the issues discussed in the report and may lead the evaluation team to modify some of the conclusions. This report is intended for limited distribution to inform U.S. Citizenship and Immigration Service (USCIS) in making policy decisions with respect to the Basic Pilot program that cannot wait until issuance of the formal report and should not be cited.

1. PURPOSE OF THE REPORT

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), enacted in September 1996, authorized the creation of three small-scale pilot programs to test the feasibility and desirability of electronically verifying the work-authorization status of newly hired employees. Two of these pilot programs have been terminated; however, the third pilot program, referred to as the Basic Pilot, was expanded in scope and extended until November 2008 in the Basic Pilot Program Extension and Expansion Act of 2003 (Pub. Law 108-156). A Web-based version of the Basic Pilot Program (Web Basic Pilot), incorporating many improvements growing out of experiences with the original Basic Pilot program and evaluations of the pilot programs, was implemented in June 2004.

The focus of the current report is on the Web Basic Pilot. The report's goals are the following:

- Determine whether the Web Basic Pilot has resulted in the improvements in the automated employment verification process that it was designed to address;
- Determine whether any unexpected problems arose in the process of implementing the new version of the Basic Pilot program; and
- Investigate further some general questions about automated employment verification programs that were not fully answered in the previous evaluations of the IIRIRA employment pilot programs.

This report includes recently collected information from Federal employees and contractors, Web Basic Pilot employers, and employees verified by the Web Basic Pilot. It also draws heavily on the results of the original Basic Pilot evaluation that were reported in the *INS Basic Pilot Evaluation Summary Report* (January 2002) and on subsequent evaluation activities related to the IIRIRA pilot programs.

2. REPORT ORGANIZATION

The rest of this chapter provides an overview of the history of the employment verification pilots, describes the basic procedures constituting verification under the Web Basic Pilot, and presents the research questions to be discussed in this report. The second chapter describes the methodology used in this report. The third chapter describes the report findings related to program implementation, and the fourth chapter presents findings related to policy questions. This report is designed as an interim report and, therefore, does not include a chapter describing the report conclusions and recommendations. Such a chapter will be included in the final report after all data analyses are complete.

B. LEGISLATIVE BACKGROUND

1. PASSAGE OF EMPLOYER SANCTIONS

Congress passed employer sanctions legislation in late 1986 as part of Immigration Reform and Control Act (IRCA) of 1986. This legislation made it unlawful for U.S. employers to hire or continue to employ workers without authorization to work in the United States. IRCA was passed in response to increases in undocumented immigration and recommendations by a series of Congressional and Executive Branch task forces and commissions – ranging from the small, bilateral Special Study Group on Illegal Immigrants from Mexico (1973) to the blue-ribbon Select Commission on Immigration and Refugee Policy (1981).

From the outset, employer sanctions legislation was controversial. Concerns about the legislation included whether it would be effective in reducing unauthorized employment given the difficulty in verifying identity and work authorization, and whether the process would result in increased discrimination against work-authorized persons who appeared or sounded foreign. Additional concerns were expressed about the potential for privacy violations and whether it would be unduly burdensome for employers, employees, and the Federal Government. Many of the groups studying these issues recommended ways of administering employer sanctions and accompanying work-authorization verification that would minimize fraud and employer burden, protect privacy, and be nondiscriminatory.

2. EMPLOYMENT VERIFICATION AND CIVIL RIGHTS PROTECTIONS

In addition to instituting employer sanctions, IRCA prohibited discrimination on the basis of national origin or citizenship status. A new agency, the Office of Special Counsel for Immigration-Related Unfair Employment Practices, was established in the Department of Justice to enforce this provision.

IRCA also required that the Immigration and Naturalization Service (INS) develop and implement an employment verification system for all newly hired employees.⁴ The universal employment verification system specified in IRCA is a paper-based system (implemented by INS as Form I-9) that requires all newly hired employees to attest to being a U.S. citizen or national, a lawful permanent resident, or other work-authorized noncitizen. The system also requires employees to present documentation establishing their identity and work authorization. Employers are required to examine this documentation and attest that it appears to be genuine and to relate to the employee. See Appendix A for a copy of the I-9 form and lists of acceptable documents.

Acknowledging that there were likely to be better verification systems than the one specified in IRCA, Congress authorized the Executive Branch to develop demonstration tests of alternative employment verification systems. Such systems had to be reliable, secure, and limited to use for employment eligibility verification and could not include the use of a national identity document. Specific additional requirements were levied before such a system could be implemented.

IRCA also required INS to establish a program to verify the immigration status of noncitizens for certain benefit and entitlement programs. The established program, known as Systematic Alien Verification for Entitlements (SAVE), includes an automated match of applicant information against a special extract of the INS database created for this purpose.

3. EVALUATION OF THE IMPACT OF EMPLOYER SANCTIONS IMPLEMENTATION

Because of the concern over unintended impacts, many prominent groups studied the implementation of employer sanctions. One major concern was that the widespread availability of fraudulent documents made it easy for undocumented workers to convince employers that they were authorized to work. This situation limited the potential effectiveness of IRCA. Other concerns focused on whether work-authorized employees would experience discrimination or have their privacy rights violated.

Most prominent among such studies are the three IRCA-mandated reports by the General Accounting Office (GAO). In its second report to Congress in November 1988, GAO reported that the greatest threats to document security appeared to be the Social Security card and the INS Alien Registration Card, the so-called “green card” issued to permanent residents. At the time of that study, some 17 valid versions of the green card were in use, most of which were easily counterfeited.

In its final report to Congress in 1990, GAO found that the implementation of employer sanctions had resulted in a widespread pattern of discrimination against work-authorized

⁴ The IIRIRA pilot programs and the original evaluations of them were conducted under the auspices of INS within the Department of Justice. On March 1, 2003, INS was incorporated into the U. S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security (DHS). In this report, reference will be made to INS when discussing events that occurred prior to March 1. Reference to USCIS or DHS will be made when talking about the present and the future.

employees. GAO noted that employers' uncertainty over the sheer number of documents and the ease of counterfeiting documents used in the verification process contributed to the pattern of discrimination they found. Instead of repealing employer sanctions, GAO recommended mitigating confusion by increasing employer education and reducing the number of acceptable documents, making them more secure, and requiring all members of the workforce to use the more secure documents.⁵ GAO also summarized the pros and cons of alternative verification procedures.

The GAO findings triggered further inquiry on possible employment verification systems, documentary requirements, and the discriminatory and other possible negative impacts of employer sanctions and employment verification. These studies were undertaken by a wide range of Federal Government agencies, States, and localities with sizeable foreign-born populations, and private organizations such as the Urban Institute and RAND. Although some studies called for the repeal of employer sanctions, others found that the problems could largely be remedied by simplifying and clarifying the Form I-9 employment verification system. Some commentators considered a single secure identifier, such as a prevalidated driver's license/nondriver identification card, as the means of verifying work authorization to be an attractive option worth testing on a pilot or demonstration project basis.

In November 1988, the Social Security Administration (SSA) issued another IRCA-mandated report, *A Social Security Number Validation System: Feasibility, Costs, and Privacy Consideration*. This report found that although a system to verify Social Security numbers with SSA by telephone, for instance, is technically feasible, it has limited utility in deterring unauthorized employment. Although the system would identify never-issued numbers, cards issued for nonwork purposes, and numbers issued to persons who were deceased, it could not ensure that the bearer of the card was the person to whom it had been issued. The report instead proposed a system based on State-issued driver's licenses and nondriver identification cards, where identity could be better established.

SSA noted in its report that some 26 States were already validating birth certificate information for driver's license applicants and that SSA could increase the security of information for States by prevalidating Social Security numbers electronically, a process already included by 29 States as a part of their license requirements. SSA noted that driver's licenses generally include photographs and physical descriptions of the bearer and are reissued every few years, thus enhancing their likeness to the bearer and the document's overall integrity. Such a system, SSA argued, would not only establish a card linking the Social Security number with a photograph and other identifying data, it would reduce the agency's workload and costs significantly by eliminating the need to verify Social Security numbers for employers every time a person is hired.

⁵ By recommending that this provision apply to all members of the workforce, GAO meant that counterfeit-resistant documents should not be issued only prospectively. If such an alternative were accepted, the document would be reissued to all persons now holding it, as well as to all future applicants.

Because State-issued driver's licenses, nondriver identification cards, and birth certificates were frequently used to document identity and U.S. citizenship in the employment verification process, in 1989 Congress mandated that the Attorney General review State initiatives to reduce the fraudulent production, issuance, and use of these documents.⁶ In response to this mandate, in November 1992 INS issued its *Report on the Security of State-Issued Documents*.

The report found the security of the State driver's licensing processes to be generally far superior to that for birth certificates. INS reported that States were "generally using secure paper stock, lamination, and related security features to prevent counterfeiting and alteration" of driver's licenses.⁷ Moreover, the report found that States were incrementally applying technology to make driver's licenses more fraud-resistant and that changes to licenses were typically implemented simultaneously on a Statewide basis, thus reducing the number of versions of valid cards in circulation at a time.

However, the report found that time and funding limitations affected the security of the issuance process. For instance, it reported that Department of Motor Vehicles personnel had limited time and training to determine the authenticity of the documents presented as proof of identity in the licensing process. Thus, unauthorized workers could use counterfeit documents (often referred to as breeder documents) to obtain driver's licenses.

The Immigration Act of 1990 established the Commission on Immigration Reform, which continued the study of employment verification. In 1994, the Commission recommended testing a national registry-type system under which all newly hired workers, citizen and noncitizen alike, would be electronically verified for employment authorization through a unified database comprised of SSA and INS information. It recommended that the President test and evaluate a series of pilot programs using different approaches to provide information needed to assess the advantages, disadvantages, and costs of these approaches; the availability and quality of data; and the impacts on civil rights and liberties. Suggested approaches included a more secure Social Security card, a counterfeit-resistant driver's license, and a telephone/electronic verification system.

Legislative debate ensued to consider the Commission's recommendations and to gain greater control over undocumented immigration. Although the design of the SSA and INS databases precluded easy development of the single national registry database the Commission recommended, the two agencies believed they could develop a small-scale voluntary pilot program using separate checks of their databases. After considering a number of comprehensive immigration reform bills that included electronic employment verification programs, Congress passed IIRIRA, which provided for small-scale testing, evaluation, and reporting on three voluntary pilot programs before a national system would be considered. Testing on a pilot basis was considered important because of the limitations of Federal data for verification purposes, the potential for workplace discrimination and

⁶ Section 5 of the Nursing Relief Act of 1989, P.L. 101-238.

⁷ U.S. Immigration and Naturalization Service (1992), p. 39.

privacy violations, and practical logistical considerations about larger scale implementation.

The Basic Pilot Extension Act of 2001, passed in January 2002, extended the authorization of the Basic Pilot program for an additional 2 years. The Basic Pilot Program Extension and Expansion Act of 2003 further extended the authorization for the Basic Pilot program until November 2008. At the same time, it authorized making the program available to all 50 States on a voluntary basis.

At the time of this interim report, several bills that would expand the Basic Pilot program and make it mandatory, for at least some employers and employees, have been proposed. They differ in terms of which employees and employers would be included and also differ in their implementation time tables for implementation.

{Because of the current legislative uncertainty which may well be resolved prior to making this report available, discussion of the new legislative efforts has been postponed to the next version of the paper.}

Exhibit I-1 summarizes the relevant laws and their corresponding actions.

Exhibit I-1: Relevant Laws and Their Corresponding Actions

Year	Law	Action
1986	Immigration Reform and Control Act (IRCA)	Established employer sanctions and employee verification and prohibited workplace discrimination on the basis of national origin or citizenship
1990	Immigration Act of 1990	Established the Commission on Immigration Reform, which subsequently recommended increased electronic verification of all newly hired employees
1996	Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)	Provided for testing, evaluation, and reporting of three voluntary pilot programs involving electronic verification
2002	Basic Pilot Extension Act of 2001	Extended the authorization of the Basic Pilot program for an additional 2 years
2003	Basic Pilot Program Extension and Expansion Act of 2003	Expanded the Basic Pilot program to all 50 States and extended its authorization until November 2008.

C. IMPLEMENTATION OF ELECTRONIC VERIFICATION PILOTS PRIOR TO THE WEB BASIC PILOT

1. SETTING THE COURSE THROUGH EARLY PILOT PROGRAMS

The early pilot studies described below were precursors to the IIRIRA pilots and helped create the basic verification procedures, limitations, and safeguards that are currently in use in the pilot programs. The pilots used electronic verification procedures and the SAVE database called the Alien Status Verification Index (ASVI) developed earlier for this purpose. The ASVI is an extract updated nightly from the INS Central Index System and the Nonimmigrant Information System. At the time it was adopted for the first pilot, the

ASVI had already been used by benefit agencies. These pilots did not reduce employer paperwork because the pilot processes were implemented in addition to Form I-9 requirements. The early pilot programs are summarized in Exhibit I-2.

Exhibit I-2: Early Employment Verification Pilot Programs

Year	Early Pilot	Location	Input Method	Action
1992	Telephone Verification System (TVS)	CA, FL, IL, NY, TX	SAVE procedures and point-of-sale device over telephone lines using INS ASVI database; paper/mail secondary verification if needed	Demonstrated feasibility of telephone verification for newly hired noncitizens
1995	Telephone Verification Pilot, Phase II (TVP)	Los Angeles area	PC and modem to access INS database; paper/mail secondary verification if needed	Tested impact of noncitizen verification in defined geographic area
1996	Employment Verification Pilot (EVP)	Across the U.S.	PC and modem with automated secondary verification process	Tested verification of newly hired noncitizens in different environments
1997	Joint Employment Verification Pilot (JEVP)	Chicago area	Touchtone telephone to access SSA; PC/modem to access INS; automated secondary verification process	Tested verification of all newly hired employees with SSA and, if necessary, INS

The Telephone Verification System (TVS) Pilot demonstrated the feasibility of verifying the work-authorization status of noncitizen employees by telephone. The TVS was implemented in 1992 for nine volunteer employers located in the five States with the largest estimated populations of undocumented immigrants (California, Florida, Illinois, New York, and Texas). All participating employers signed a Memorandum of Understanding (MOU) describing the responsibilities of the employers and INS under the program.⁸ Only employees who attested to being noncitizens on INS Form I-9 were electronically verified in this pilot. The TVS demonstrated the feasibility of telephone verification of employees’ work-authorization status using point-of-sale devices.

The Telephone Verification Pilot, Phase II (TVP), tested the impact of noncitizen verification in a defined geographic area. Based on the apparent success of the TVS, INS initiated the TVP in 1995. Participation in the TVP was limited to employers in a limited geographic area in the Los Angeles area. A total of 238 employers volunteered for this pilot, which tested the impact of a pilot in a relatively concentrated geographic area. Participating employers conducted primary verification for newly hired noncitizens using a personal computer (PC) and modem to access the INS database. If secondary verifications were necessary, employers sent copies of employees’ immigration documents to INS for further verification. When INS could not determine employees’ work-authorization status, the employees were encouraged to visit an INS office to resolve the discrepancy.

⁸ See Appendix B for a copy of the MOU signed by employers and USCIS.

The Employment Verification Pilot (EVP) tested the verification of the work-authorization status of noncitizens in different environments. The EVP, begun in 1996, expanded upon the TVP pilot by including more than 1,000 employers of varying size and industrial classification throughout the United States. This pilot's strength was that it was tested in many different environments. Additionally, INS automated the formerly paper secondary verification process in the EVP to expedite this portion of the verification process.

The Joint Employment Verification Pilot (JEVP) was the first joint pilot between SSA and INS to verify all newly hired employees. This two-step SSA-INS pilot was developed in response to the Commission on Immigration Reform's recommendation for a national registry system. It departed from the earlier pilot programs by electronically verifying the work-authorization status of all newly hired employees, using both the SSA and INS databases. All newly hired employees were verified through SSA. When SSA data could not determine the current work-authorization status of employees attesting to being work-authorized noncitizens, a further check was made through INS. The two agencies initiated this joint pilot in the Chicago area in July 1997 with 38 employers.

2. THE IIRIRA PILOTS PRIOR TO THE WEB BASIC PILOT

As noted above, at the time that the early INS pilots were being tested there was renewed discussion of the desirability of possible modifications of the Form I-9 procedures. In addition to the feasibility of electronic verification, these discussions considered such possibilities as restricting the types of identity and work-authorization documents and improving document security. Civil rights groups, however, remained concerned about the further testing of electronic employment verification systems, the impact of such systems on workplace discrimination, moving to single identity documents, and privacy. The IIRIRA, enacted in September 1996, attempted to address these views and the need to test rather than implement a national system when it authorized three pilots, the Basic Pilot, the Citizenship Attestation Verification Pilot (CAVP), and the Machine Readable Document Pilot (MRDP). These pilot programs, as initially authorized and implemented, are summarized in Exhibit I-3.

Exhibit I-3: IIRIRA Pilots as Initially Implemented

Year	IIRIRA Pilot	Location	Location Rationale	Method
1997	Basic Pilot	CA, FL, IL, NY, TX	States with highest undocumented immigration	Electronic verification for both citizens and newly hired noncitizens
1999	Citizen Attestation Verification Pilot (CAVP)	AZ, MD, MA, MI, VA	States not in Basic Pilot but having sizeable undocumented immigrant populations and reasonably secure State-issued identification documents	Electronic verification for newly hired noncitizens only
1999	Machine-Readable Document Pilot (MRDP)	IA	State with machine-readable name, date of birth, and Social Security number on driver's license	Electronic verification for citizens and noncitizens through machine-readable driver's license/nondriver identification card if presented to employer; otherwise, like the Basic Pilot

The **Basic Pilot** verifies all newly hired employees through SSA and, if necessary, Department of Homeland Security (DHS) databases. IIRIRA called for the Basic Pilot to be conducted in at least five of the States with the largest estimated populations of undocumented immigrants; California, Florida, Illinois, New York, and Texas were chosen. Nebraska was added in March 1999, and the program was made available to employers in all 50 States the Basic Pilot Program Extension and Expansion Act of 2003 (Pub. Law 108-156), which also extended the Basic Pilot to November 2008.

The Basic Pilot, launched in November 1997, is similar to the earlier J EVP. Like J EVP employers, Basic Pilot employers electronically verify the status of all newly hired employees, first with SSA and then, if necessary, with USCIS. However, the Form I-9 documentation requirements imposed by IIRIRA are more stringent than those of the J EVP in that they require employees to present an identity document with a photograph.

The June 2002 evaluation of the Basic Pilot (Findings of the Basic Pilot Program Evaluation, <http://USCIS.gov/graphics/aboutus/repstudies/piloteval/pilotevalcomplete.htm>) found that the majority of participating employers accepted it as an effective, reliable tool for employment verification. Similarly, the evaluation found that employees had few complaints about the program. However, the evaluation also found evidence of discrimination and privacy violations that were exacerbated by inaccuracies in the Federal databases and the failure of many employers to follow MOU provisions

The Basic Pilot Program Extension and Expansion Act of 2003 (Pub. Law 108-156) extended the Basic Pilot to November 2008 and mandated the expansion of the Basic Pilot Program to all 50 states. This expansion was announced in a Federal Register notice December 20, 2004. The same notice announced the new Web-based version of the Basic Pilot.

The CAVP required electronic verification only for noncitizens. IIRIRA mandated that this pilot be implemented in at least five States identified as having counterfeit-resistant

driver's licenses and nondriver identification cards. The five States selected for the CAVP were Arizona, Maryland, Massachusetts, Michigan, and Virginia. Under the CAVP, which began in May 1999, participating employers electronically verified the work authorization of newly hired employees who attested on the I-9 form to being work-authorized noncitizens. Employers did not electronically verify the work-authorization status of persons who attest to U.S. citizenship, who are also subject to less stringent document requirements.

The evaluation of the CAVP indicated that while it was less costly than the Basic Pilot program, it was also much less effective in preventing the employment of individuals without work authorization, close to half of whom were falsely attesting to U.S. citizenship. Moreover, the CAVP was found to be more discriminatory than the Basic Pilot program. Since the cost savings were not large, the evaluation team recommended that the CAVP be discontinued as soon as possible. The CAVP program was terminated in June 2003.

The MRDP was designed to test card swiping technology. The MRDP was identical in most respects to the Basic Pilot program. The primary difference between these two pilots was in the way that employers input and transmit the employee data that were verified electronically by SSA and INS. In the Basic Pilot program, the employer manually enters all information into a PC. In the MRDP program, the employer was required to input employee information using an MRDP card reader capable of reading information contained in a magnetic stripe on driver's licenses and State-issued nondriver identification cards if such a document is proffered. If the case must be referred to INS, the employer was prompted for the additional information needed to match employee information against the INS database.

The MRDP was intended to test the feasibility of automating the process of querying the Federal databases, in much the same way that stores verify charges for purchases against a credit card company database. This process was seen as potentially less burdensome for employers and also less prone to data entry errors that are inevitable with the manual entry of data.

The MRDP was initiated in June 1999 in Iowa. The restriction of this program to Iowa was necessary because INS determined that Iowa was the only State that issued secure licenses and nondriver identification cards containing Social Security numbers in a machine-readable form. It was expected that when employees presented Iowa licenses and nondriver identification cards, the employer would input employee information by swiping the card through the reader. Since not all employees provided an Iowa driver's license or nondriver identification card, the MRDP also allowed for the employer to input the information manually using the Basic Pilot procedures. During the time the MRDP was in operation, Iowa changed its licensing procedures, resulting in a system that was no longer consistent with the original criteria for participating in the program. Given these practical problems, the MRDP was also terminated in favor of the Basic Pilot program in May 2003.

D. GOALS AND OBJECTIVES OF THE EVALUATIONS SPECIFIED IN IIRIRA

The IIRIRA legislation required evaluation of the pilot programs implemented. The goals and objectives underlying these evaluations of the IIRIRA pilot programs were articulated, in part, in the legislation. They also reflected input from numerous stakeholder groups interested in the electronic verification of employees. Section 405 of IIRIRA required that the Secretary of Homeland Security submit reports on these programs to the House and Senate Judiciary Committees. These reports had the following purposes:

- Assess the benefits and costs of the pilot programs and the degree to which they assist in the enforcement of employer sanctions.
- Assess the degree of fraudulent attestation of U.S. citizenship.
- Make recommendations on whether the pilot program should be continued or modified.

The Executive Branch and the many nongovernmental groups interested in employment verification viewed the evaluation as an essential part of the implementation of the employment verification pilots. In mid-1997, DHS selected two firms – Westat, an employee-owned research corporation located in Rockville, Maryland, and the Institute for Survey Research at Temple University – to conduct an independent evaluation of each of the three IIRIRA pilot programs.

Many groups interested and/or involved in the IIRIRA pilot programs agreed that these evaluations should consider a variety of issues related to the impact of electronic verification of work authorization in the workplace. The programs were to be evaluated against the existing paper Form I-9 process.

The main research questions posed in the IIRIRA pilot evaluations conducted to date ask whether the pilots perform the following:

- Operate as their designers intended (i.e., were they properly implemented);
- Reduce employment of unauthorized workers;
- Reduce discrimination;
- Protect employee civil liberties and privacy; and
- Prevent undue burden on employers.

E. THE WEB BASIC PILOT

1. INTRODUCTION

The Web-based Basic Pilot program (Web Basic Pilot) is an enhancement of the original Basic Pilot program that uses the web for interfacing between employers and the automated verification system. Even though this report refers to it as the Web Basic Pilot

program, it is not a new pilot program, but a version of the Basic Pilot program, instituted under IIRIRA. Like the original Basic Pilot program, it verifies all newly hired employees through SSA and, if necessary, DHS databases.

The Web Basic Pilot was first offered to employers as an alternative to the PC-based version of the pilot in June 2004. In July 2005, the Federal Government discontinued support of the original Basic Pilot program, so no employers are currently using the original Basic Pilot program. To switch to the new program, employers had to sign a new MOU.

The major differences between the Web Basic Pilot and the original Basic Pilot program are as follows:

- In the Web Basic Pilot, communication between employers and the verification system are conducted over the web rather than by a modem connection.
- Employers no longer need to install software on their computers to use the program.
- The training materials have been redesigned and employer staff are now required to pass a test on the material presented in the training module prior to being permitted to use the system.
- New edit checks have been added to the system to decrease the number of employer input errors.

The Web Basic Pilot is not a static system (i.e., the Federal Government has made changes to the system since its introduction in June 2004 and continues to make plans for additional enhancements).

This section describes the primary features of the Web Basic Pilot.

2. BECOMING A WEB BASIC PILOT PROGRAM EMPLOYER

The first step toward using the Web Basic Pilot system is to register online to use the program. During this registration process, the employer prints out a copy of a MOU (see Appendix B), agreeing to adhere to Basic Pilot requirements.

Once the employer has signed and returned the MOU, the program administrator must complete an online tutorial and pass a Mastery Test before being granted access to the verification system or being able to register additional users. Likewise, any new users must complete the tutorial and pass the Mastery Test before their user names and passwords will be granted access to the verification system. The tutorial covers both how to use the online verification system and also the employer's responsibilities under the program, including the need to post a notice of participation in the Web Basic Pilot where job applicants can see it and the proper ways of handling possible verification outcomes.

The Mastery Test consists of a series of 21 multiple choice and true/false questions about the requirements and correct procedures of using the Web Basic Pilot. Users must answer 15 questions correctly (71 percent) to pass the test. Once the Mastery Test is successfully completed, the employee is granted access to the verification system.

3. DESCRIPTION OF WEB BASIC PILOT VERIFICATION PROCESS

a. PAPER FORM I-9 VERIFICATION PROCESS

The starting point for the Web Basic Pilot verification process is the existing paper Form I-9 verification process used by all employers, including those *not* enrolled in the Web Basic Pilot. When employees are hired, they are required to complete the Employment Eligibility Verification Form (Form I-9) and provide the employer with documentation of their identity and work-authorization status. Depending on the employee's status, a wide variety of documents are acceptable for these purposes (see Appendix A).

In Section 1 of Form I-9, the employee records personal information, attests to citizenship status, and signs the form. The employer completes Section 2 of the form, recording the type of documents presented as proof of identity and work authorization and any document expiration dates. After reviewing the documents presented by the employee, the employer records the date of hire. The employer also signs the I-9 form to certify having examined the documents presented by the employee and having found them to appear valid and to belong to the person presenting them. Under the Form I-9 process, the verification responsibility rests solely with the employer. Depending on the employer's familiarity with various immigration and other documents and with the detection of fraudulent employment eligibility documents, an employee without work authorization may or may not be denied further employment under this system.

b. WEB-BASED BASIC PILOT VERIFICATION PROCESS

The automated verification process in the Web Basic Pilot begins when employers input the Form I-9 information into the computer system. The Form I-9 data entered include employee's name, date of birth, and Social Security number, citizenship status, Alien or Nonimmigrant Admission Number, the type of document(s) presented with the I-9 form, and any expiration date of documents.

Employers participating in the pilot then submit this information electronically to the Federal Government over the Internet. The government then determines whether the employees are work-authorized by electronically comparing the employer information with the appropriate government databases.

Immediately after the employer submits information, the SSA database is automatically checked against the employer-input information. If there is a match and the SSA database indicates that the person is a citizen, the employer is immediately notified that the employee is authorized to work. In this situation, no further effort on the part of Federal staff, employees, or employers is required other than the requirement that employers close these cases.

If the SSA database does not match the employee information input by the employer, SSA issues a tentative nonconfirmation. If the SSA database information matches the employee information and the employee is identified as a noncitizen on the Form I-9, the Form I-9 information is forwarded to USCIS to determine whether the employee is work-authorized.⁹

If the employee information input by the employer for a case forwarded from SSA to USCIS matches the USCIS ASVI database and confirms work authorization, the employer is immediately notified that the employee is work-authorized. If the match does not result in a confirmation of work authorization, a “case in continuance” result is issued to the employer, and the case is automatically sent to an Immigration Status Verifier (ISV). The ISV searches other electronic information available at USCIS and, if necessary, examines hard-copy records to determine whether work-authorization status can be confirmed. USCIS reports that this process typically takes less than a day from receipt of the electronic information to a decision being made on whether USCIS can confirm work-authorization status without requiring employee action. If the ISV can confirm work-authorization status, the work-authorization finding is issued. If the ISV does not have sufficient information to confirm work-authorization status, a tentative nonconfirmation is issued.

The electronic match of the Form I-9 information to the Federal databases usually results in an instantaneous response that employees are “employment authorized.” Employers are then required to record the verification number and result on the I-9 form, or print a copy of the transaction record and retain it with the I-9 form.

When the SSA or USCIS records are not sufficient to verify that the employee is work-authorized, the pilot system issues “tentative nonconfirmation” findings. At that point, employers are required to provide affected employees with written notification of the finding and their right to contest the finding, if they wish to do so. Employees are required to indicate whether they wish to contest the tentative nonconfirmation finding.

When employees say that they wish to contest tentative nonconfirmations, employers are instructed to provide them with a written referral to SSA or USCIS, as appropriate, to correct the discrepancy and to record the referral date on the Web Basic Pilot database. The Web Basic Pilot system provides a referral form that explains the employees’ rights and responsibilities during the resolution period. Employees must contact the SSA or USCIS office within the allotted period of 8 Federal working days from the date of referral. While the case is being contested, employers may not take adverse actions against employees based on the issuance of the tentative nonconfirmation.

If employees say that they do not wish to contest the case or if they say they want to contest, but do not follow through by correcting the discrepancy in their records with SSA or USCIS, their cases are classified as final nonconfirmation cases. The employer is then

⁹ Prior to October 21, 2005, SSA also notified employers that the employee was work-authorized if their database indicated that the employee was a legal permanent resident, refugee, or asylee.

supposed to terminate the employment of those employees who receive final nonconfirmations.

For SSA tentative nonconfirmations: If employees go to an SSA office and straighten out their records within the designated time (8 Federal working days), employers are required to reverify the employees through the Web Basic Pilot system. Normally, the employee will be instantaneously verified. If the employer resubmits the case after the 10 Federal work days allowed for final processing of the case and the employee has not successfully resolved the case, the system will return a final nonconfirmation finding. To comply with the law, employers then must terminate their employment.

For USCIS tentative nonconfirmations: If employees contact USCIS by fax, by telephone, or in person to straighten out their records within 8 Federal working days, USCIS will determine whether the employee is work-authorized and will input the finding into the Web Basic Pilot database. If employees do not contact USCIS and provide the required information within 8 Federal working days, the Web Basic Pilot system returns a final nonconfirmation finding after 10 Federal working days.

The major steps of the Web Basic Pilot verification process are illustrated in Exhibits I-4 and I-5.¹⁰ The current procedures described here reflect a procedural change implemented on October 21, 2005. Prior to that date, SSA issued a finding of work-authorized for individuals who stated on the Form I-9 that they were work-authorized noncitizens and the SSA information on employees' citizenship status confirmed permanent work-authorized status. This process that was in effect during much of the time covered by this evaluation is depicted in Exhibit I-6.

¹⁰ The process described assumes that employers follow the Basic Pilot procedures.

Exhibit I-4: Verification Process for Persons Claiming to be U.S. Citizens on Form I-9

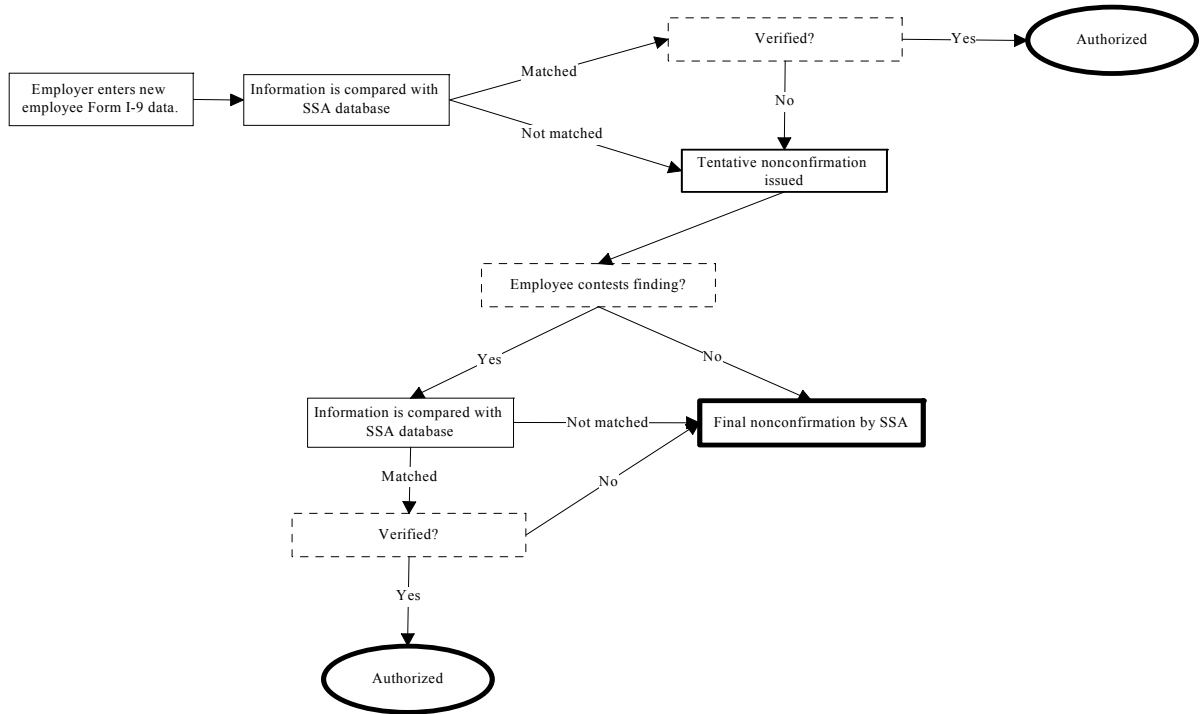


Exhibit I-5: Post-October Verification Process for Persons Claiming to be Noncitizens on Form I-9

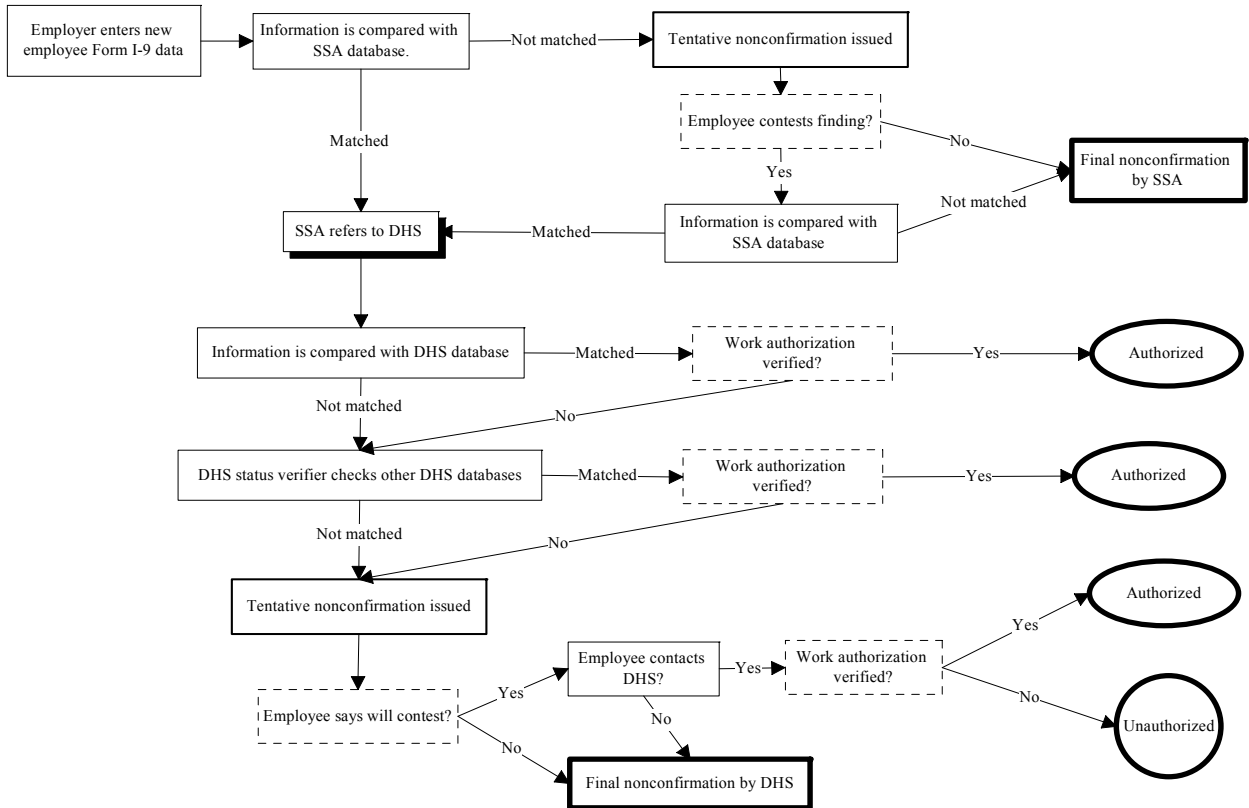
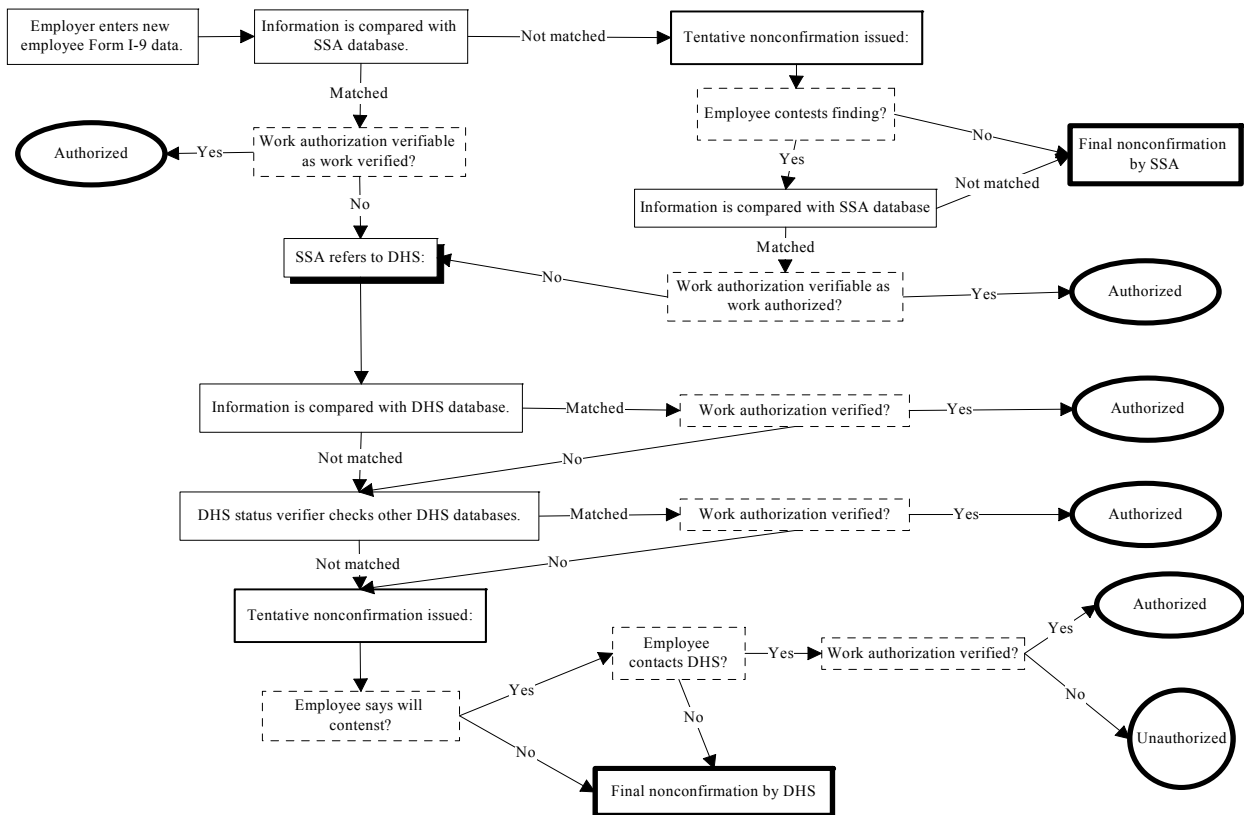


Exhibit I-6: Pre-October 2005 Verification Process for Persons Claiming to be Noncitizens on Form I-9



F. RESEARCH QUESTIONS TO BE DISCUSSED IN THE REPORT

The Basic Pilot Program Extension and Expansion Act of 2003 did not explicitly require additional evaluation of the Basic Pilot program. However, USCIS decided that such evaluation was critical to informing the proper implementation of a national electronic employment verification program, anticipated in a number of administrative and legislative initiatives. The earlier evaluations of the IIRIRA pilot programs were not considered adequate for this purpose in light of the numerous modifications of the original Basic Pilot program, incorporated into the Web Basic Pilot.

The goals, objectives, and resulting research questions of the Web Basic Pilot evaluation, in large part, reflect the goals and objectives of the earlier evaluations: (1) Do the pilots operate as their designers intended (i.e., were they properly implemented)? (2) Do the pilots reduce employment of unauthorized workers? (3) Do the pilots reduce discrimination? (4) Do the pilots protect employee civil liberties and privacy? (5) Do the pilots prevent undue burden on employers? However, this report builds on the preceding work. It emphasizes understanding the impacts of changes made to the Basic Pilot system since the original evaluation of the Basic Pilot program and also emphasizes increasing understanding of research questions which could not be fully answered in the evaluation

work done to date. The major research questions addressed in this report are described below.

1. HOW WELL WAS THE WEB-BASED BASIC PILOT PROGRAM IMPLEMENTED?

The first question, addressed in Chapter III of this report, is to determine how well the Web-based Basic Pilot program has been implemented. This process evaluation is critical to ensure that we understand whether any problems observed in the outcome evaluation may be attributed to weaknesses in program implementation that may be correctable in the future. Furthermore, issues arising in the process evaluation may indicate underlying problems that may interfere with the long-term success of the program. For example, unrealistic employer requirements may foster noncompliance with not just the specific unrealistic requirements, but other requirements as well.

Since making the Basic Pilot system more user-friendly and less burdensome from an employer perspective was a goal of many of the modifications of the original Basic Pilot that were incorporated into the Web Basic Pilot program, an important component of understanding Web Basic Pilot implementation is determining whether the changes did result in increased employer satisfaction with the Web Basic Pilot compared to the earlier original Basic Pilot system.

Similarly, changes to the tutorial and other training materials and edit checks added to the Web Basic Pilot software were designed to improve employer compliance associated with confusion over the pilot requirements. Chapter III, therefore, discusses whether these changes were effective in increasing employer compliance with the requirements.

Understanding employer satisfaction and compliance with the Web-based Basic Pilot program also has implications for policy questions addressed in Chapter IV of the report. For example, the ability of the program to decrease unauthorized employment is clearly a function of program usage; as long as the employment verification program remains voluntary, employer satisfaction will strongly affect program usage. The material in Chapter III, therefore, lays the groundwork for much of the discussion in Chapter IV.

2. IS THE WEB BASIC PILOT EFFECTIVE IN MEETING PILOT PROGRAM GOALS?

The second broad research question is addressed in Chapter IV. The same goals that governed the previous IIRIRA employment verification pilot evaluations are relevant for assessing the Web-based Basic Pilot program. These goals are to create a system that would decrease unauthorized employment while protecting against discrimination, safeguarding privacy, and avoiding undue employer burden. The previous evaluations indicated that the pilot programs did an adequate job of safeguarding privacy, subsequent to implementing modifications recommended by the original Basic Pilot evaluation. This report, therefore, focuses primarily on the three pilot goals that were not clearly met (decreasing unauthorized employment, avoiding increased discrimination, and avoiding undue employer burden) in the earlier pilot programs. However, since there were major changes to the pilot software and operating procedures during implementation of the Web-

based Basic Pilot program, it also addresses the question of whether the Web-based Basic Pilot adequately safeguards privacy.

G. SUMMARY

In sum, the Web Basic Pilot program is an enhancement of the original Basic Pilot program, one of three IIRIRA pilot programs that build upon prior experience with automatic employment verification in an attempt to decrease unauthorized employment while protecting against discrimination, privacy infringement, and undue employer costs. The primary differences between the Web Basic Pilot and the original Basic Pilot program are as follows:

- The Web Basic Pilot uses the Internet to register new employers, provide new verification staff with training in how to use the system, and to communicate with employers.
- The training materials have been redesigned and employer staff are now required to pass a test on the material presented in the training module prior to being permitted to use the system.
- New edit checks have been added to the system to decrease the number of employer input errors.

This interim report focuses on the two broad but related evaluation questions:

- Was the Web Basic Pilot program implementation consistent with stakeholder expectations?
- Did the Web Basic Pilot program achieve its primary policy goals?

These questions are addressed in Chapters III and IV, respectively. Chapter II provides information about the evaluation methodology. The final chapter, which has not yet been written, will focus on recommendations for further changes to the program.

CHAPTER II. RESEARCH METHODS

A. INTRODUCTION

The evaluation team for the Web-based Basic Pilot (Web Basic Pilot) adopted a multimodal approach to data collection. Sources included the following:

- Web survey of employers using the Web-based version of the Basic Pilot (Web Basic Pilot) program;
- Case studies, including interviews with establishment representatives, record reviews and interviews of employees who received tentative nonconfirmations;
- Web Basic Pilot transaction database analyses;
- Meetings with Federal officials and their contractors; and
- System testing.

Standard research procedures were used in this study to assure the quality of the data. Quality control procedures were implemented to ensure data accuracy. These procedures included training of data collection and data processing staff and data cleaning based on consistency and range checks.

B. EVALUATION METHODS

Given the complex nature of an evaluation design that uses multiple data sources, it is important to understand the relationships among the data sources, their uses, and the data collection instruments. This section describes the different approaches used for the Web Basic Pilot evaluation.

1. WEB SURVEY OF EMPLOYERS

A web survey of all employers was conducted as part of the evaluation. The target of the survey was employers that had been actively using the Web Basic Pilot for at least 1 year.

a. SAMPLE SELECTION

The sample of employers for the employer web survey consisted of all employers meeting the following criteria:

- The employer had signed a Memorandum of Understanding (MOU) before April 1, 2005;
- The employer had not notified the U.S. Citizenship and Immigration Service (USCIS) that it wished to terminate enrollment in the Web Basic Pilot;
- The employer transmitted at least one case in August or September 2005; and
- The employer had transmitted at least one case in February or March 2006.

The employers that participated in the case studies and case study pretest were excluded from the employer web survey.

b. SELECTION OF QUESTIONS FOR SURVEY

Many of the questions asked in the employer survey were adapted directly from the Active Basic Pilot employer mail survey to permit direct comparisons of the two pilots. The following modifications were made to the Basic Pilot program survey instrument to make it useful for the Web-based Basic Pilot program:

- Deletion of questions that are irrelevant to the Web-based Basic Pilot program. For example, the question “From the time this establishment first received materials needed to install the Basic Pilot system, how long was it before the system was installed?” is irrelevant to the Web-based Basic Pilot program.
- Deletion or modification of questions found not to be useful in the Basic Pilot program analyses. For example, the question, “During the past 2 years, has this establishment been found guilty of any of the following by a Federal or state agency: employment discrimination; pollution of the environment, violation of OSHA or labor standards?” was found not to be useful in the original Basic Pilot evaluation and has been excluded.
- Addition of relevant questions from the Citizenship Attestation Verification Pilot (CAVP) and Machine Readable Document Pilot (MRDP) surveys that were added or modified as a result of experiences with the original Basic Pilot employer surveys that were the first surveys administered.
- Addition of key questions from the on-site Basic Pilot program and MRDP surveys that could be adapted for use in a self-administered survey.
- Addition of questions needed to obtain information about some of the unique features of the Web-based Basic Pilot program.
- Addition of a set of questions targeted to employers who participated in both the Basic Pilot program and the Web-based Basic Pilot program to determine what they perceive to be the strengths and weaknesses of the Web-based Basic Pilot program compared to the Basic Pilot program.

c. PRETESTING THE DRAFT SURVEY

The initial draft of the web survey was pretested on a small group of employers to verify that the questions were clear and that the survey did not take an excessive amount of time to complete. This was done by conducting an online focus group, using WebEx, a web-based hosting service for integrated teleconferencing. Modifications to the survey were made based on input from the focus group. A copy of the final web survey is contained in Appendix C.

d. CREATING AND TESTING THE WEB SURVEY

Programming staff created an online version of the web survey. The process used to develop the web application was an iterative one. Programming staff then provided research staff with a draft instrument that had been tested by programmers. Research staff then tested the functionality of the survey and requested changes to the visual appearance of the survey and its functionality. Programmers made and tested the requested changes, which were tested again by research staff. This process continued until both programming and research staff approved the survey for use.

The following is a list of the features of Westat's online survey:

- It makes use of logins, passwords, and Secure Sockets Layer (SSL) to ensure limited access and data security.
- Programmable conditional and skip logics are built in. Respondents are automatically navigated to the correct location on the survey based on their responses.
- Validations and edits were designed to alert respondents to missed questions or inconsistent responses.
- Respondents can save, close the survey, and then return to the next unanswered question at any time before the survey is completed.
- Different response formats such as “select one” and “select all” were allowed. Questions were formatted with all the standard input controls (i.e., drop-down box, text area, text box, radio buttons, and check boxes).
- Respondents are able to navigate back through the survey and change prior responses without data loss.
- Downloadable versions of the online survey are available to respondents in both PDF and MS Word format.
- When respondents complete the survey, they are offered the opportunity to print a copy of their responses. This printed copy also informs them which questions were part of a skip pattern, as well as which ones were not answered.
- A receipt control module is built into the system to provide the research team with information on response rates and other survey statuses.

e. STAFF TRAINING

The evaluation team provided thorough training to the telephone callers and data entry staff who worked on the employer survey. For the telephone staff, who obtained correct email addresses, reminded respondents that their questionnaires had not been completed, answered respondent questions and conducted refusal conversion, this training included an explanation of the purpose of the survey, review and explanation of the calling duties, and

role-playing scenarios. For data entry staff that used the management system, training consisted of an explanation of the purpose of the survey, review of result codes and edits, and practice sections inputting data into the management system.

f. DATA COLLECTION

The initial contact with employers was via an email from Westat with an attached letter from USCIS on letterhead that explained the survey, reminded participants of their responsibility to cooperate with the evaluation as stated in the MOU that they had signed, informed them that Westat will be conducting the survey, and stressed the confidential nature of their participation. This email requested that recipients either confirm that they are the correct contact person or provide information on who should be contacted.

When emails bounced back as undeliverable, an email was sent to the alternate contact person if one was listed on the file. If there was no alternate contact person or the email to the alternate contact person also proved to be undeliverable, the employer was called to ascertain the correct contact person.

When the initial email did not elicit a response, a reminder email was sent. When necessary, this was followed by a phone call to the contact person. Once a confirmed contact person was available, Westat sent the contact person the initial login email containing the information necessary to log into the system and complete the survey.

If after approximately 2 weeks from the time the initial login email was sent, the survey had not been completed, Westat sent a reminder email to the employer. Approximately, 2 weeks later a second email reminder was sent. For those sample members who still had not responded 1 week later, phone call reminders were made.

A hard-copy version of the survey was made available to respondents online for downloading. However, to minimize mode effects, submission of the survey in hard copy was not encouraged; however, this was available as an alternative if the phone callers believed it necessary to secure a response during the nonresponse calling process. However, no hard-copy responses were received and all interviews were done by respondents using the web program.

g. WEIGHTING AND NONRESPONSE ADJUSTMENT

Since all employers meeting specified criteria were included in the sample, no weighting was necessary to adjust for differential sampling probabilities. Since the response rate for the survey was 86 percent and experience with prior employer surveys had indicated that nonresponse adjustments had trivial effects on the final estimates, there were also no adjustments made for nonresponse.

h. DATABASE CONSTRUCTION

The initial database file from the employer survey was generated directly from the web application. Employer-level variables from the transaction database, such as the number of verification queries and the number of tentative nonconfirmations, were then added to the

file created by the web application. An extract from this file was created containing variables for which comparable data existed on the original Basic Pilot surveys. A comparable extract was created from the original Basic Pilot, and the two files were merged to facilitate comparisons of the original Basic Pilot and Web Basic Pilot results.

i. MEASUREMENT AND DATA ANALYSIS

Most of the variables used in analyzing the employer web survey data were measured in a straight-forward fashion. These include continuous variables, such as the number of cases the employer transmitted in the preceding 6 months and categorical variables, such as whether the employer agreed with the statement “Contesting a tentative nonconfirmation is not encouraged because the process requires too much time.” When there were too few cases in some of the categories of a categorical variable to permit meaningful analysis, adjacent ordered cells were combined (e.g., “agree” and “strongly agree”).

For this report, the only variable measured using a scale derived with advanced statistical techniques is employer satisfaction. To assess the employers’ overall satisfaction level with the pilots systematically, item response theory methodology was used to construct this scale to measure the employers’ satisfaction with the pilots. It is a modification of the one used in an earlier evaluation report that integrated information from the three Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) evaluations, based on questions used in that study that are also available in the Web Basic Pilot survey. To construct the satisfaction scale, a mixed method approach was applied using both theory-driven and data-driven analysis to explore the item-scale relationship. The theory-driven model grouped the items relevant to each underlying construct and used these groupings to guide the analysis. The items used in the satisfaction scale are as follows:

- Burdensome: Indirect costs for setting up the system
- Burdensome: Indirect costs for maintaining the system
- How useful the manual was
- Tentative nonconfirmation: Providing assistance is excessive burden on staff
- Tentative nonconfirmation: Burden because there are so many of them
- Pilot experience: At this time, the number of employees hired is too great to enter
- Procedure: The tasks required by the pilot overburden
- Procedure: It is impossible to fulfill employer obligation required
- Overall, the pilot is an effective tool for employment verification
- Any difficulties with the pilot after setup
- Benefits of the system outweigh disadvantages

Most of the analyses done using the employer survey consisted of simple descriptive statistics (e.g., means and frequencies). For example, such statistics were used to summarize the responses of employers that used both the Web-based Basic Pilot program and the Basic Pilot program to questions about their perceptions of the differences between the programs. In comparing responses of Web-based Basic Pilot program employers with Basic Pilot program employers on relevant questions asked of both groups, tests of significance were used. More specifically t-tests, ANOVA, and Chi-square tests were used.

2. CASE STUDIES

a. OVERVIEW

The site visit component of the case studies consisted of the following elements:

- Interviews with establishment employees responsible for the verification process;
- Observation of the establishment's verification process;
- Examination of employee records related to the verification process; and
- Interviews with employees.

b. SAMPLE SELECTION AND RECRUITMENT

i. Establishment Sample

A purposive sample of five employers was selected for the case study. Only employers with a relatively large number of tentative nonconfirmations were considered eligible for the study to ensure a sufficiently large number of employees available for interviewing. For the sake of efficiency, only employers located near several other eligible employers were approached for inclusion. To ensure some diversity among respondents, no more than two employers were selected from a given locale, and an attempt was made to find employers from different types of industries.¹¹

The employers selected for participation in the case study were sent an initial email asking for their cooperation with an attached letter from USCIS endorsing the study and asking for their cooperation. Because of the complex nature of the case study, all followup was conducted by telephone.

A total of 18 employers received an email requesting their participation in the case study portion of the evaluation. Eight of these employers either refused to participate or failed to return phone calls. Efforts to recruit were discontinued after five employers had agreed to participate.

¹¹ To protect the confidentiality of the case study interviewees, detailed information about the selected employers is not provided.

ii. Employee Sample

The employee sample for each employer consisted of a purposive sample of up to 100 employees who the evaluation team believed had received tentative nonconfirmations. Selection of the employees for inclusion in the initial employee sample was based on the recency of the cases and the case outcome (Social Security Administration [SSA] final nonconfirmation, verified by SSA at second stage, USCIS final nonconfirmation, USCIS unauthorized, and USCIS third stage authorization). The goal was to have sample sizes within each outcome category that were proportionate to the overall number of cases with that outcome at each employer. For example, if 50 percent of tentative nonconfirmation cases for a case study employer were SSA final nonconfirmation cases, the goal was to have 50 percent of the employees interviewed from the group that had SSA final nonconfirmations.

This initial list of employees constituted the employee sample for the record review portion of the case study. The interviewers were instructed to select employees from this list for in-person interviews. Criteria for selection included case outcome and the amount of information available for locating the employee. They also gave preference to employees who spoke (were likely to speak?) either English or Spanish, since interviewers proficient in languages other than English and Spanish were not used in the study and interviewing through an interpreter is somewhat problematic. They were also instructed to give preference to obtaining interviews with those employees who had puzzling records. Within these limitations, the interviewers were free to select interviewees based on the ease with which they could locate them. For example, it made sense to try to interview potential respondents who live close to one another in a single trip.

c. INSTRUMENT DESIGN AND DEVELOPMENT

i. Initial Design

Three instruments were prepared for use in the case study portion of the study. These instruments consisted of an employer interview protocol, an employee interview protocol, and a record review form. In keeping with the ethnographic nature of the case studies, interviewers were given a great deal of leeway in what questions they asked of both employees and employers within the frameworks established by the written materials.

Development of the instrument for use with *employers* started with a review of the employer on-site surveys used in earlier evaluations. Modifications were made in light of the research goals of this study, previous experiences with the employer on-site interviews and the less structured interviewing instruments being used for this study.

Development of the instrument for use with *employees* started with a review of the employee surveys used in earlier evaluations. Modifications were made in light of the research goals of this study, previous experiences with the employee interviews and the less structured interviewing instruments being used for this study. Since no comparisons between the employees interviewed in the case studies and employees previously

interviewed were planned, there was no attempt to maintain consistency between the new instrument and those used in earlier evaluations.

Once drafts of the employer and employee interview protocols were completed, an online focus group was conducted to further inform the case study. The goals of this focus group were to ascertain what procedures employers would be comfortable with and what types of activities they would recommend that the interviewers undertake to understand the hiring and verification processes at their establishments. The protocols were modified in response to the focus group.

A record review form was designed to obtain as much information as possible about the experiences of each employee during the tentative nonconfirmation process and was also used to capture any locating information available in the record. These forms were individualized for each employee on the list. It contained information necessary to verify that the correct employee's record had been provided by the employer and also contained information about the case from the transaction database. The form permitted interviewers to indicate whether the information in the employee's record was consistent with the information on the transaction database and, if not, provided space for the interviewer to describe any discrepancies, including missing documents.

ii. Pretest of Instruments

Because the instruments developed for the case study differed substantially from previously used instruments, they were pretested. Site visits were made to two establishments. At each site, the Web Basic Pilot contact person was interviewed, record review forms were completed for several employees who had received tentative nonconfirmations, and two employees were interviewed. Two staff members conducted each of these site visits. One member of the interview team was a research team member and the second was the interviewer supervisor selected for the site visits. The interviewer supervisor was responsible for conducting and writing up the interview. The researcher observed in order to identify and correct any deficiencies in the initial drafts of the instruments that might interfere with achieving the research goals of the evaluation. Both members were responsible for identifying any problems with the protocols or the record review form. All of the instruments were revised, as needed, in light of the pretest prior to conducting the actual site visits. (See Appendices D, E, and F for copies of the protocols and the review form.)

d. INTERVIEWER SELECTION, TRAINING, AND MONITORING

Conducting ethnographic observations and interviews requires using highly educated and experienced interviewers. It also requires intensive training of these interviewers. Accordingly, the evaluation team selected experienced interviewers known to the interviewer supervisor. Two of the selected individuals were bilingual in English and Spanish.

The selected interviewers had an intensive 4-day training session. This training session started with an in-depth explanation of the evaluation goals and methodology,

concentrating on the site visit stage of the study. This introduction to the evaluation also included an overview of the Web Basic Pilot program, and each interviewer completed the Web Basic Pilot online tutorial and passed the Mastery Test. Next, the interview guides and observational protocols were carefully reviewed with the interviewers and, finally, role-playing exercises were used to give interviewers an opportunity to practice the interviewing techniques they would use. Interviewers also had opportunities to practice using the record review form.

During the data collection period, interviewers were monitored in several ways. First, they had weekly conference calls with their supervisors to discuss productivity, problems finding employees, and contact strategies for maximizing response rates. Supervisors thoroughly reviewed all employer and employee case summaries as they were completed by each interviewer and provided feedback. Supervisors also provided additional feedback and discussed problems and strategies through email with interviewers.

e. DATA COLLECTION

The site visits were conducted from the last week of May through July 2006. The first step in the site visit consisted of an interview of the primary contact person for the Web-based Basic Pilot program. The contact person also identified and invited other establishment staff members who were involved in the Web Basic Pilot process to participate in the interview. The contact person(s) was asked questions about the verification process at the establishment. Once the interviewing of establishment staff was completed, the interviewers observed as much of the verification process as feasible. They also determined whether the pilot notice was displayed in a prominent place that was clearly visible to prospective employees, as required by the pilot program.

During the initial site visit, the interviewers also reviewed the employment verification-related records¹² of the employees identified for the record review stage of the case study during the initial establishment visit. Of the 451 records identified for review, 376 were reviewed. The remaining records were not reviewed for several reasons, including the following:

- Some employers retained some employee records for only short periods of time;
- Some employees were never officially hired by the company;
- Some records could not be located; and/or
- Some records were duplicates since the transaction database contained duplicates due to data entry errors that were not detected during the cleaning process.

¹² Records consisted of Employment Eligibility Verification forms (Forms I-9) for the employee as well as any attached photocopies of documents presented, Basic Pilot transaction records, and copies of any notices of the employee's intent to contest a tentative nonconfirmation finding.

Subsequent visits to the establishment were made, if needed, to complete the record review, clarify information obtained during the record review or employee interviews, and/or to interview employees if the establishment was willing to cooperate by providing a suitable interviewing environment.

Initial locating of employees was done by a locating service on the basis of name and social security number. This service provided contact information for 262 of the 451 employees selected for record review and possible interview. During the record review, interviewers recorded available information from the Form I-9 and any other address sources, such as copies of drivers' licenses used to prove identity in the verification process that were included in the employees' Form I-9 files. Finally, while interviewers were in the field, they attempted to trace employees by talking to neighbors or landlords when feasible.

Once the employees had been located, the evaluation team mailed them an introductory letter that described the purpose of the interview, established the interview's legitimacy, guaranteed confidentiality, and provided the names of evaluation staff who could answer questions about the interview. Within 2 weeks of the introductory letter mailing, interviewers began to contact employees. To facilitate introduction at the door, interviewers wore an identification badge and handed out the study brochure to the person answering the door. To encourage participation, respondents who completed the interview were offered a \$25 incentive.

Most interviews were conducted in the sampled employees' homes, at the case study establishment, or in-person at an alternate agreed upon site. A small number of interviews were conducted over the telephone because the employee lived in an area that interviewers were not comfortable visiting and an alternate location could not be identified for the interview. An in-person interview had been chosen because of the complexity of some of the questions, the need to show examples of the I-9 and other forms, the low education level of a significant proportion of individuals, and the limited English language proficiency of some employees in the sample. Bilingual interviewers conducted the interviews for Spanish-speaking respondents whenever possible. During the in-person interview, a trained interviewer asked employees about their experience in applying for the job with the Web Basic Pilot employer, how their paperwork was processed, and how any problems encountered during employment verification were resolved. The employees' demographic characteristics were also collected. The data collection followed procedures and management structures designed to ensure the highest quality data.

The goal was to complete 20 employee interviews for each employer to obtain a total sample of 100 employees. A total of 79 employees were interviewed from approximately 150 attempted employees. Because of the nature of the sample and the procedures, calculation of a formal response rate is not appropriate. On the basis of additional information obtained during the site visits, it was decided that 14 of these interviewees had been erroneously classified as tentative nonconfirmation cases; one additional interviewee

was not knowledgeable about the tentative nonconfirmation finding or the contesting process because his mother had resolved the finding for him. Thus, the total sample of tentative nonconfirmation recipients was 64.¹³

f. DATA ANALYSIS

Most of the information collected from the case studies was descriptive in nature. The information from these interviews was captured in descriptive summaries of each of the case studies. These summaries highlighted information relevant to understanding discrimination against employees, especially information about the impacts of tentative nonconfirmations on the employees and evidence of whether employers were following Web Basic Pilot procedures designed to minimize the negative impacts of tentative nonconfirmations on them. A synopsis of the individual employer summaries was then prepared and is included in Appendix G.

Some quantitative data were collected that could usefully be summarized using descriptive statistics. Some of these data were collected in the employee interviews. For example, cost information collected permitted calculating the average financial burden incurred by employees who received tentative nonconfirmations and also allowed calculation of the range of the reported values. Because the employee samples are not designed to be statistically representative, these statistics should not be over-interpreted by extrapolating them to a larger population; however, they do provide insights into the costs of erroneous tentative nonconfirmations.

3. WEB BASIC PILOT TRANSACTION DATABASE ANALYSES

The transaction database provides information on the extent to which employers use the pilot program and also provides information on the verification outcomes. Westat constructed a transaction database of all cases submitted to the Web-based Basic Pilot from the start of the program in June 2004 through March 2006. Since this database was designed to implement the Department of Homeland Security (DHS) and SSA program goals rather than for analytic purposes, the analysis of the transaction database required complex file manipulation and cleaning.

The transaction data were subjected to extensive cleaning routines to delete cases that were transmitted in error (e.g., when the employer realized that a typographical error had been made or the same case was transmitted more than once) and to correct situations in which it appeared that the employer had improperly resubmitted cases to SSA as if they were new cases. Although not all errors can be detected in such cleaning programs, the resulting database is a truer reflection of the actual case processing than the original database was.

¹³ Reasons for misclassification included employer errors in coding cases that had not been identified during cleaning of the Transaction Database and a misunderstanding of the meaning of one of the transaction codes on Westat's part. The latter error was corrected before doing the Transaction Database Analyses reported in this paper.

Data from the contractors' employer files and from special files provided by SSA were merged with information from the transaction database. Since the transaction databases created for analysis are censuses of all the employee records for the designated time periods, analyses based on the transaction database are not subject to sampling error. However, there is nonsampling error. In constructing the transaction databases, it was sometimes necessary for staff members to make informed determinations of how to treat duplicate or unmatched cases. As in any case involving human judgment, mistakes may occur.

4. DISCUSSIONS WITH FEDERAL OFFICIALS AND CONTRACTORS

During the course of the original Basic Pilot evaluation, the evaluation team interviewed 15 senior officials and contractors from SSA and Immigration and Naturalization Service (INS) and other offices within the Department of Justice that had responsibility for designing and/or implementing the pilot programs. The information captured in those interviews represents the informed opinions of individuals who had experience with the pilot programs and with electronic verification systems. For the Web Basic Pilot, the project director had additional discussions with Federal and contractor staff to obtain relevant updated financial and programmatic information for the evaluation.

5. SYSTEM TESTING

The evaluation team tested the Web Basic Pilot system by registering for the Web Basic Pilot as an employer, registering system users, completing the tutorial and mastery test, and using the system to verify employment eligibility. System testers reviewed the instructional and informational content provided by the system, including the MOU, the tutorial screens, mouse-over text, and other online resources. They tested the functionality and usability of each feature of the online program. Tests were also performed to determine how much leniency the system tolerated in employees' names and dates of birth (e.g., does the system accept typos or nicknames). No attempt was made to break into the system database.

C. LIMITATIONS IN INTERPRETING EVALUATION RESULTS

As in every study, the data sources used in this evaluation have limitations. Special care should be exercised when interpreting the results from this study for several reasons.

Pilot establishments account for only a small proportion of all establishments in the United States. Moreover, establishments registering for the Web Basic Pilot do not constitute a representative sample of all establishments. For instance, prior evaluations have indicated that pilot participants tend to be larger than most establishments, have higher proportions of foreign-born employees, and are more concentrated in certain industries and locations. Therefore, the results of this study represent only those establishments that participated in the program.

It is also important to understand that pilot establishments volunteered to participate. The generally favorable attitude that comes with volunteering may differ from the attitudes of

employers that are less willing to participate. Voluntary participation limits the generalization of study results to employers beyond those establishments that used the system.

As in all data collection efforts, some employers did not respond to the web survey. In this situation, it is possible that the respondents differ systematically from the nonrespondents. To the extent that this is true, data must be interpreted with this potential source of bias in mind.

CHAPTER III. WAS THE WEB BASIC PILOT PROGRAM IMPLEMENTATION CONSISTENT WITH STAKEHOLDER EXPECTATIONS?

A. BACKGROUND

1. INTRODUCTION

The first step in a program evaluation is usually to determine whether the program has been implemented as intended, since deviations from the original design highlight areas where the program design might need modification to be effective. Scrutinizing program operations also helps to identify the extent to which the intended results may not have occurred because of implementation issues or program design. This chapter focuses on whether the Federal Government and the employers who agreed to use the program have performed their respective roles in implementing the Web-based Basic Pilot (Web Basic Pilot) program.

2. DATA LIMITATIONS

Many of the employer findings in this chapter are based on data obtained from employers that responded to the web survey of employers using the Web Basic Pilot. Since the employers constituted a population of all active employers that had been using the Web Basic Pilot for over a year, sampling error is not an issue for the survey.¹⁴ However, like all surveys, the employer survey is subject to nonsampling errors, such as nonresponse bias and measurement error.

Information from the five case study employers, the 376 employee verification-related records reviewed, and the 64 employees interviewed who had received tentative nonconfirmations cannot be considered to be representative of all employers or tentative nonconfirmation employees.¹⁵ The case study is designed to provide more in-depth insights into the Web Basic Pilot than can be obtained solely from more structured methodologies but should not be generalized to a larger population using statistical methodologies.

Information obtained directly from the Web Basic Pilot transaction database for June 2004 through March 2006 is based on over 1.3 million cases. This is an extremely large sample and constitutes the population of cases submitted during this time. Although sampling error is not a concern, the possibility of measurement error exists because the United States Citizenship and Immigration Services (USCIS) and Social Security Administration (SSA) data provided from employer verification transactions contained some errors due, for

¹⁴ See Chapter II for more information on the exact sample specifications.

¹⁵ See Chapter II for additional information on the methodology of the report.

example, to employer input errors. Although the data were cleaned, it is not possible to rectify all errors.¹⁶

3. SYSTEM OUTCOMES

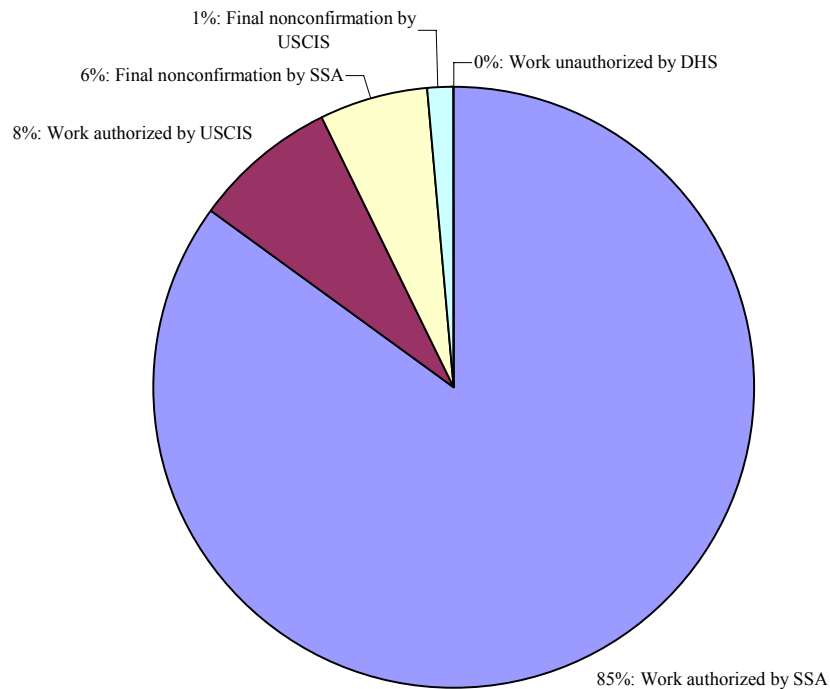
a. INTRODUCTION

To answer the process evaluation questions in this chapter, it is necessary to have an understanding of what the system outcomes were. These outcomes are described here and then referred to later in the report, as relevant to understanding the findings. Summary information about system outcomes is contained in Exhibit III-1 and more detailed information is contained in Exhibits III-2, III-3, and III-5. The more detailed exhibits examine separately three groups of cases: cases for those who claimed to be U.S. citizens on their Form I-9s; those who claimed to be work-authorized noncitizens and had their cases initiated before October 21, 2005; and those who claimed to be work-authorized noncitizens and had their cases initiated after case processing procedures changed in October 2005.

During June 2004 through March 2006, employers made over 1.3 million verification attempts. As shown in the Exhibit III-1, 85 percent of the verification attempts were confirmed by SSA, and 8 percent were verified by USCIS as being individuals authorized to work. Seven percent of all verification attempts were never resolved (labeled “Final nonconfirmation by SSA” or “Final nonconfirmation by USCIS”). For these cases, the employee did not contest a tentative nonconfirmation response from SSA or USCIS either because the employees decided not to contest or because their employers did not follow the proper notification procedures. In addition, about 0.1 percent (or 299 cases) were found by USCIS to be unauthorized to work in the United States.

¹⁶ See Chapter II for additional information on the methodology of the report.

Exhibit III-1: Overall Finding of Outcomes From the Web-based Basic Pilot Program (June 2004 through March 2006)



SOURCE: Web Basic Pilot Transaction Database

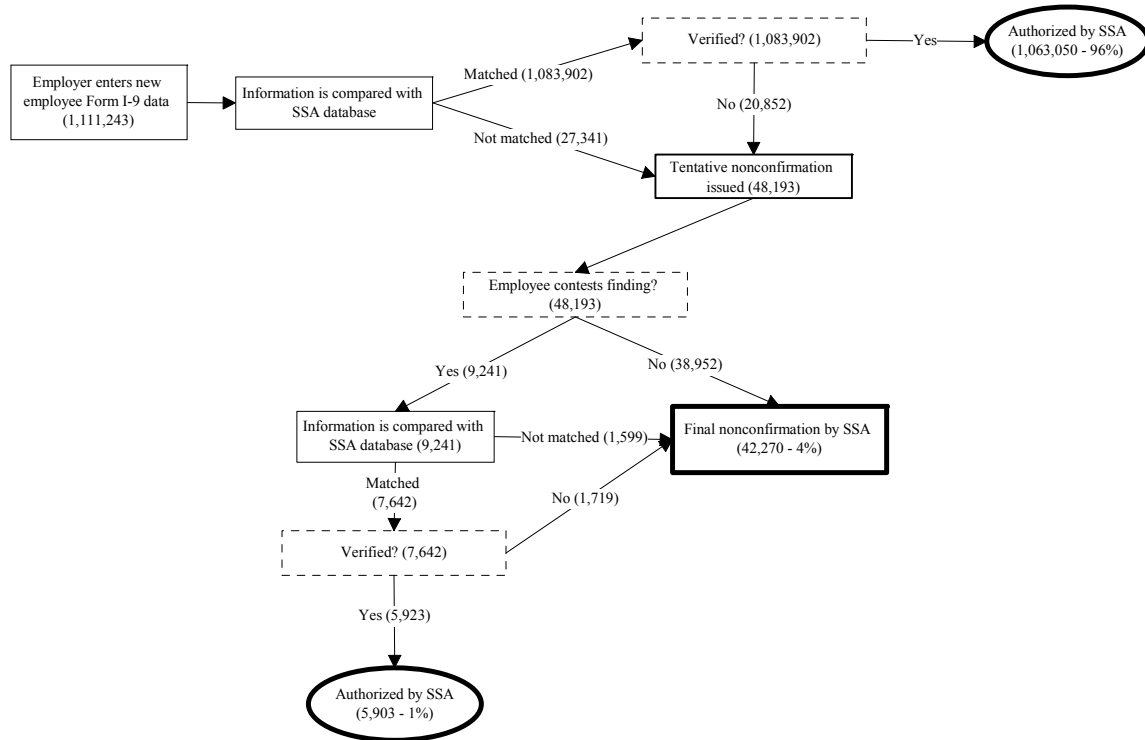
b. CASE OUTCOMES FOR PERSONS CLAIMING TO BE U.S. CITIZENS

In the 22-month period from June 2004 through March 2006, over 1.1 million verification attempts were made by employers for persons claiming to be U.S. citizens on the Form I-9, using the Web Basic Pilot.¹⁷ The outcome of these verification attempts are displayed in Exhibit III-2. As illustrated, 96 percent of these cases were confirmed as work-authorized by SSA at the first verification attempt. Approximately 48,200 (4 percent) of the cases received tentative nonconfirmations.

Among U.S. citizen cases receiving tentative nonconfirmations, approximately 12 percent (5,900) were contested and found to be work-authorized. This group of cases constituted less than 1 percent of all transactions for persons attesting to being U.S. citizens.

¹⁷ Additional cases were verified through the original Basic Pilot during the early months of the Web Basic Pilot before its elimination in July 2005.

Exhibit III-2: Verification Process for Persons Claiming to be U.S. Citizens on Form I-9 (June 2004 thru March 2006)



SOURCE: Web Basic Pilot Transaction Database

Four percent (approximately 42,270 cases) of all transactions for persons attesting to being U.S. citizens represent final nonconfirmation outcomes from SSA queries. In those cases, SSA was unable to confirm the individual's work authorization during its automated matching processes.

For a variety of reasons, the original inconclusive findings were not followed to completion. For instance, the transaction database records indicate that 38,952 (81 percent) of the final nonconfirmation cases were ones in which employees were not referred to SSA. In some of these cases, the employees were informed of problems but decided not to contest the findings, because they were not work-authorized or for other reasons. In other cases, the employer did not inform the employee or did not provide all the information needed to contest in a way that the employee could understand.

In the remaining 9,241 final nonconfirmation cases, the transaction database indicates that the case was referred to SSA, but there is no evidence that the employee contested the case. This includes employees who told their employers that they would contest, but did not do so because they were not work-authorized or for other reasons. For example, at one case study employer, many employees were instructed to mark "contest" on the Tentative Nonconfirmation Notice so that they could work longer, even if they were not work-authorized. Of the 20 employees interviewed from this employer, most reported that they

had marked the contest line on the notice but only four actually intended to go through with the contesting process.

The final nonconfirmation cases referred to SSA but not resolved also probably include cases in which employees resolved their cases by going to SSA, but the employer failed to resubmit the cases, as required by the Web Basic Pilot after the employee went to SSA. For example, one case study employer told the interviewers that they re-entered employees' information as new cases when they returned from SSA or USCIS with additional documentation or further proof of work-authorization, thereby creating multiple Web Basic Pilot cases for many employees. Because this employer also did not close any of its cases, it is difficult to determine case outcome from the transaction database.

If a query was not immediately confirmed as "employment authorized," the system captured the reason for the tentative nonconfirmation. This SSA response code indicated that among these tentative nonconfirmation cases for those attesting to being U.S. citizens:

- Six percent (2,971 cases) had an invalid Social Security number (SSN) when compared to SSA data.
- Twenty-two percent (10,672 cases) of tentative nonconfirmations occurred because either the date of birth (DOB) or the name disagreed with SSA database (16 percent and 9 percent, respectively).
- In 32 percent (13,698) of the cases, both name and DOB disagreed with the SSA database.
- The remaining 35 percent of nonconfirmations occurred for some other reasons (e.g., SSN, name, and DOB were matched, but citizenship status was not available).

c. CASE OUTCOMES FOR PERSONS CLAIMING TO BE NONCITIZENS

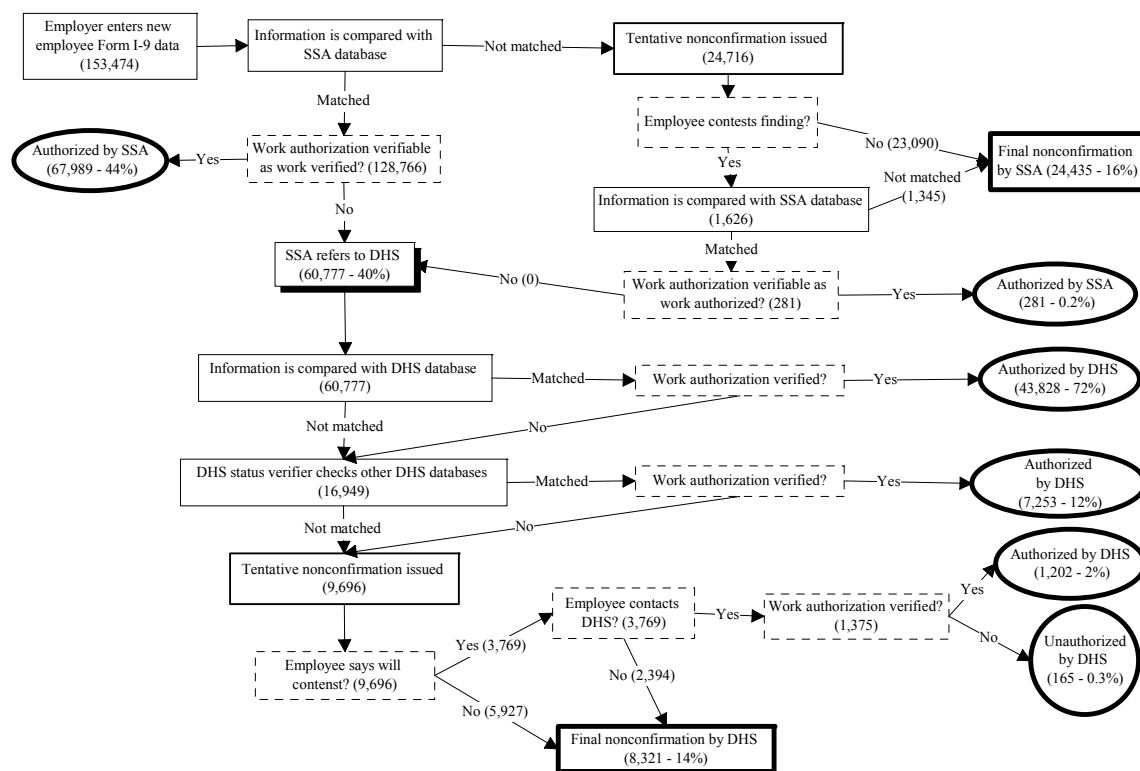
Because of a significant procedural change affecting noncitizens that was implemented on October 21, 2005, separate outcome information is provided for cases submitted prior to the change and those submitted after the change. As discussed in Chapter I, prior to the changed procedures, persons attesting to being work-authorized noncitizens were found to be work-authorized if SSA records contained adequate information to confirm their work-authorization status. After procedures were changed, all noncitizen cases having information on name and DOB that are consistent with the SSN in SSA's records are referred to USCIS, regardless of the work-authorization information in SSA records.

i. Cases Submitted from June 2004 through October 20, 2005

During June 2004 through October 20, 2005, almost 160,000 cases were submitted to the Web-based Basic Pilot system for persons attesting to being work-authorized noncitizens on their Form I-9s. The outcome of these verification attempts are displayed in Exhibit III-3. Another 16 percent became final SSA nonconfirmation cases, when an SSA tentative nonconfirmation that was not contested. As illustrated, 44 percent of the noncitizens were confirmed as work-authorized by SSA at the first verification attempt and 0.2 percent were

confirmed as work-authorized by SSA after two or more attempts. In addition, based on the transaction database information, 16 percent of the cases became SSA final nonconfirmation cases. It is likely that some of these cases were found to be work-authorized by SSA, but the employer relying solely on the letter from SSA for confirmation, did not resubmit information on the case. For example, one case study employer did not resubmit information when employees returned with a letter from SSA (this employer did not provide employees with the SSA referral letter and instead asked them for “further proof” of work authorization). The employer re-entered employees’ information as new cases when they returned from SSA, creating duplicate cases, some of which may not have been detected in the cleaning routines used in this study.

Exhibit III-3: Verification Process for Persons Claiming to be Noncitizens on Form I-9 (June 2004 thru September 2005)



SOURCE: Web Basic Pilot Transaction Database

Of those SSA final nonconfirmations, 19 percent had an invalid SSN and 21 percent had an invalid date of birth or name (not shown in table). Sixty percent were due to both name and date of birth disagreeing with the SSA database. The remaining 0.4 percent of these final nonconfirmations were attributable to other reasons (e.g., the information was matched, but the individual was deceased).

Over 60,000 (or 40 percent) of all noncitizen transactions in which electronic comparisons to SSA records were made indicated—either initially or after the case was successfully contested—that the SSA records had information about the SSN, DOB, and name that were consistent with the information input by the employer but needed to be referred to

USCIS, because SSA did not have adequate information to determine that the person was work-authorized. The employer-submitted information for noncitizens was then electronically matched against the USCIS database. Of those USCIS referred cases, 72 percent were confirmed as work-authorized by USCIS at the first attempt and 14 percent were confirmed as work-authorized after two or more attempts. Furthermore, 0.3 percent (165 cases) were found to be unauthorized to work in the United States by USCIS. Finally, 14 percent of cases became USCIS final nonconfirmation cases, because they received tentative nonconfirmations that weren't contested.

Similar to the SSA portion of the system, the USCIS portion captured the reason for the tentative nonconfirmation when a query was not immediately confirmed as "employment authorized." As shown in Exhibit III-4, the reasons why the pre-October 21 USCIS final nonconfirmation cases received tentative nonconfirmations originally were: no match in initial of first name (36 percent); Alien number not found (28 percent); no match on the DOB (8 percent); and other reasons (28 percent). According to the closure code, 41 percent of USCIS final nonconfirmation cases were closed as "self terminated," which suggest that the employee quit during the resolution of work authorization. However, anecdotal information during the pretest indicated that not all employers understood that "self" meant the employee receiving the tentative nonconfirmation rather than the person inputting information into the system. Twenty-six percent of the tentative nonconfirmations were closed as "resolved unauthorized/terminated." This closure code indicates that employers terminated the employment of those workers because they did not resolve their tentative nonconfirmations. Six percent were closed for other reasons. Twenty-eight percent of USCIS final nonconfirmation cases had no closure codes.

Exhibit III-4: USCIS Response and Closure Code for USCIS Final Nonconfirmation Cases Between June 2004 and March 2006

Category	Percent	
	6/04-10/20/05	10/21/05-3/06
USCIS response		
No match in initial of first name	36	48
Alien number not found	28	26
No match on the date of birth	8	9
Other	28	17
Closure code		
Self terminated	41	43
Resolved unauthorized/terminated	26	19
Other	6	4
Unknown	28	34
Number of cases	8,321	8,611

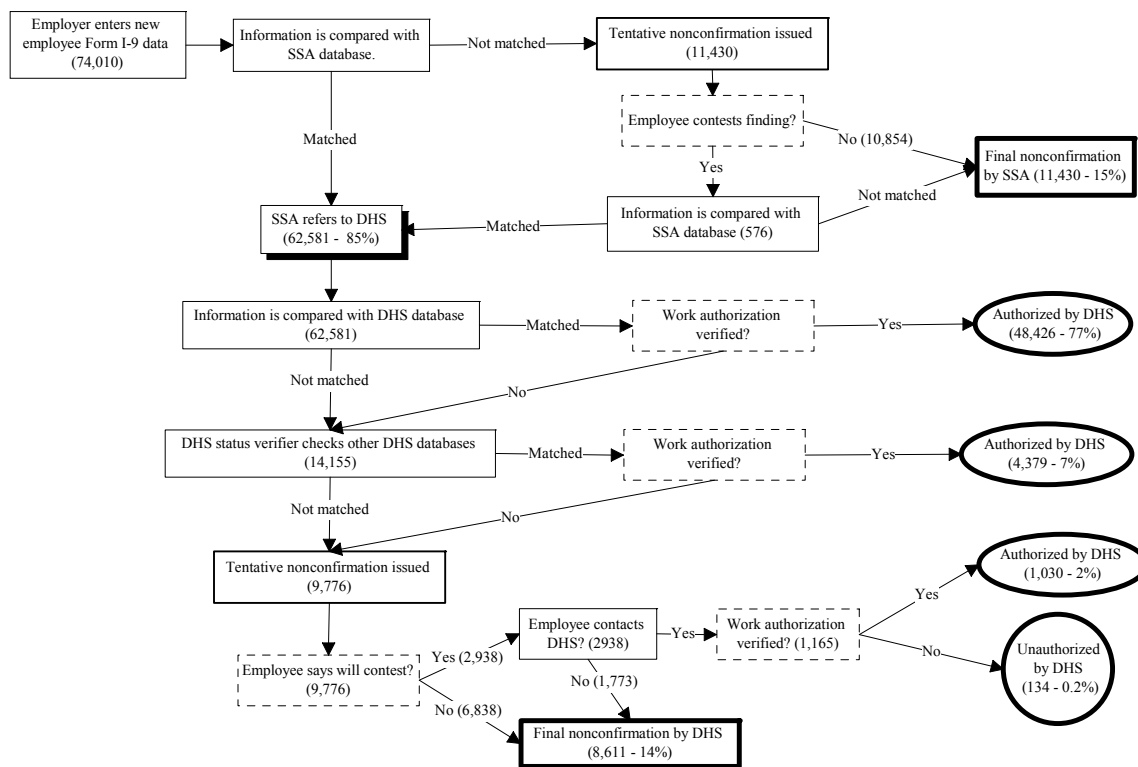
SOURCE: Web Basic Pilot Transaction Database

ii. Cases Submitted from October 21, 2005 through March 20, 2006

During October 21, 2005, through March 2006, employers submitted cases for approximately 74,000 persons claiming to be work-authorized noncitizens on their Form I-9s. The outcome of these verification attempts are displayed in Exhibit III-5. As

illustrated, in 15 percent of these cases, the information about name, SSN, and DOB on the SSA database did not match the information that the employer submitted and SSA issued a tentative nonconfirmation that later became a final nonconfirmation. As would be expected, this is essentially the same as the 16 percent SSA final nonconfirmation rate prior to October 21, 2005. Nineteen percent of those cases had invalid SSNs, and 20 percent had an invalid DOB or name (not shown in table). Sixty-one percent were due to both name and DOB disagreeing with the SSA database. Again, as expected, this was essentially unchanged from the pre-October 2005 information. The remaining 0.4 percent were for other reasons (e.g., the information was matched, but the SSN belonged to someone who was dead).

Exhibit III-5: Verification Process for Persons Claiming to be Noncitizens on Form I-9 (October 2005 thru March 2006)



SOURCE: Web Basic Pilot Transaction Database

More than 62,000 cases (85 percent) of cases in which the employee attested to being a noncitizen were forwarded to USCIS after SSA confirmed that the Form I-9 identifying information matched the information on SSA. The SSA finding usually was made instantaneously; however, some of these findings were made after a resolved tentative nonconfirmation. This 85 percent forwarding rate is, of course, much higher than the pre-October rate (40 percent).

Since SSA cannot find noncitizens to be work-authorized, it is possible for noncitizens to resolve a tentative nonconfirmation with SSA and then receive a tentative nonconfirmation from USCIS.¹⁸ During the 6-month period from October 21, 2005, through March 20, 2006, there were 86 cases in which SSA found a noncitizen case to be work-authorized after the employee contested it. Five of these cases received tentative nonconfirmations from USCIS in addition to SSA. In three of these five cases, the employee resolved the USCIS tentative nonconfirmation as well as the SSA tentative nonconfirmation. In the other two cases, the cases became USCIS final nonconfirmation cases. Thus, receiving tentative nonconfirmations from both SSA and USCIS is unusual; however, it does occur.

The employer-submitted information for noncitizen cases forwarded to USCIS is electronically matched against the USCIS database. Of those USCIS referred cases, 77 percent were confirmed as work-authorized by USCIS at the first attempt, compared to 72 percent prior to October 21, 2005. Nine percent were confirmed as work-authorized after two or more attempts, compared to 14 percent prior to October 2005. Interestingly, 86 percent of all cases were ultimately found to be work-authorized by USCIS under both systems, even though a much higher percentage of cases were forwarded to USCIS after the change in procedures.

The reasons why the post-October 20 USCIS final nonconfirmation cases received tentative nonconfirmations were no match in initial of first name (48 percent); Alien number not found (26 percent); no match on the DOB (9 percent); and other reasons (17 percent) (Exhibit III-4). Based on the closure codes, 43 percent of the final nonconfirmation cases were closed as “self terminated,” which suggests that the employee quit during the resolution of work authorization. Nineteen percent of them were closed as “resolved unauthorized/terminated,” that indicates employers terminated the employment of those workers because they did not resolve their tentative nonconfirmations. Although the system requires that employers close all queries after receiving an outcome, employers do not always comply. Thirty-four percent of USCIS final nonconfirmations were cases without closure codes.

B. HOW WELL DID THE FEDERAL GOVERNMENT DESIGN AND IMPLEMENT THE WEB BASIC PILOT?

1. INTRODUCTION

This section focuses on how well the SSA and USCIS performed their roles¹⁹ in designing and implementing the Web Basic Pilot. Several approaches to this task are used. First,

¹⁸ Prior to October 21, 2005, SSA was permitted to find legal permanent residents and other noncitizens with permanent work-authorization to be work-authorized. They could not however make a final decision about the work authorization of other noncitizens.

¹⁹ USCIS has the primary responsibility of designing, implementing, and operating the IIRIRA pilot programs. SSA’s responsibilities were largely limited to providing the SSA data for the initial verification process and any necessary follow-up with employees receiving SSA tentative nonconfirmations.

information from the transaction database is used in subsection 2 to determine the extent to which the system is being used. This information is important in understanding the ability of the program to achieve its goals, because if employers don't use the Web Basic Pilot program, the program cannot contribute to a reduction in unauthorized employment.

The third subsection examines the question of whether the system provided employers with appropriate and timely information about the work-authorization status of its employees and the fourth examines system accuracy. These are important questions because if the Web Basic Pilot does not detect fraudulent claims of work-authorization, it is likely to be ineffective in reducing unauthorized employment. At the same time, if there are large numbers of erroneous tentative nonconfirmations, Web Basic Pilot costs for employers, employees, and the Federal government will be unacceptably high.

Since many of the modifications of the original Basic Pilot program that were implemented in the Web-based pilot program were made in response to employer suggestions on ways the program could be improved, subsection five examines the question of how satisfied employers are with the program. This information is, in large part, obtained from the employer web survey. Where feasible, the Web Basic Pilot is compared with the original Basic Pilot program results. These comparisons are accomplished in two ways: (1) through the analysis of questions about the relative merits of the programs, asked of employers that have used both versions of the program; and (2) comparisons of results from the current evaluation with those of the original Basic Pilot program evaluation. Information from the case studies is used in this section to obtain a more in-depth understanding of employers' perceptions of the Web Basic Pilot.

2. EMPLOYER USAGE OF THE WEB BASIC PILOT

One key aspect of the process evaluation is program usage. This includes information both on whether employers are signing up for the program and the extent to which employers that have signed up for the program are actually using it. It should be noted that mandating the use of the electronic employment verification would presumably greatly increase the use of the Web Basic Pilot. However, restrictions on the full utilization of the Web Basic Pilot by employers' currently signed up for the program may well point to potential problems in the implementation of a mandatory national system.

The number of employers enrolled in the Web Basic Pilot is greater now than in the past. From June 2004 through March 2006, 3,734 employers enrolled in the Web Basic Pilot; these employers verified approximately 1.3 million new employees²⁰. This is in contrast to the 1,189 establishments enrolled in the Basic Pilot program as of July 1999 and the approximately 364,000 employee verifications conducted from November 1997 through December 1999. Although this demonstrates substantial progress in expanding the program, most U. S. employers are not enrolled and most new employees are not verified

²⁰ USCIS reports that as of October 30, 2006, there were 11,871 employers registered.

electronically. The national figures are approximately 7 million employers and 58 million new employees a year.²¹

Web Basic Pilot employers were more likely to start verifying cases within 3 months of signing up for the program than were original Basic Pilot employers. Exhibit III-6 shows the length of time between signing the Memorandum of Understanding (MOU) and when the employer first transmitted a case to the system. Only those employers signing the MOU at least 1 year prior to the transaction database construction are included. It is seen there that 60 percent of the employers started using the Web Basic Pilot within 3 months of signing the MOU. This is a major improvement compared to the 38 percent of establishments that used the original Basic Pilot system by the third month after signing the MOU. This is not surprising, since many original Basic Pilot employers reported significant problems and delays in setting up the program to run on their PCs and the web-based system should require little effort to set up.

Exhibit III-6: Length of Time From Signing the MOU Until First Verification

Employer usage statistics	Web-based Basic Pilot	
	Number	Percent
Same day	51	2.2
Within 3 months	1,322	58
Between 3 to 6 months	182	8
Between 6 to 9 months	116	5.1
Between 9 to 12 months	51	2.2
Had not used after 12 months	557	24.4
Total	2,279	99.9

NOTE: Based on employers that signed the MOU on or before March 20, 2005.

SOURCE: Web Basic Pilot Transaction Database

Some employers signing up for the Web Basic Pilot program never use it. Among those signing up for the Web Basic Pilot at least a year before the database was constructed, 24 percent had not used the program after a year. Only 7 percent of those not using the system at the end of the year went on to use the system during the remainder of the time for which transaction database records were available for this study.

Although strictly comparable data for the original Basic Pilot and the Web Basic Pilot are not available at this time, it appears likely that the percentage never using the web-based system is not dramatically different from the comparable percentage for the original Basic Pilot. According to the analysis of the original Basic Pilot transaction database, after 5 months, 34 percent of pilot participants had still not used the system compared to an estimated 29 percent of Web Basic Pilot employers. Although a survey of employers signing up for the program but not using it was not done for the Web Basic Pilot evaluation, information from such a survey in the Basic Pilot evaluation provides some

²¹ Estimated from U.S. Department of Labor, Bureau of Labor Statistics data in JOLTS and Business Patterns 2002.

insights into why some employers do not use the system after signing up for it. In that study, the majority (73 percent) of those signing up for the Basic Pilot without using it were employers that reported they had not hired any employees. Similar Web Basic Pilot employers obviously would not have used the Web Basic Pilot or any other verification system during the same time. Another 20 percent of the original Basic Pilot non-users said they had technical difficulties. Given the improvements in the Web Basic System, it is likely that fewer employers are in this category, possibly explaining the reduction in the rate of non-users among MOU-signers.

3. DID THE WEB BASIC PILOT PROVIDE EMPLOYERS WITH APPROPRIATE AND TIMELY INFORMATION ABOUT THE WORK-AUTHORIZATION STATUS OF EMPLOYEES?

Another process evaluation question is whether the system is providing employers with information about the work-authorization status of employees and doing so in a timely manner.

The Web Basic Pilot instantly verified the work-authorization status of most employees. The Web Basic Pilot instantly confirmed the work-authorization status of 91 percent (1.2 million cases) of the 1.3 million cases electronically processed. An additional 0.9 percent of cases (11,600 cases) were verified after initial review by an Immigration Status Verifier (ISV). According to the transaction database, 85 percent of these second stage verification cases are resolved within 1 day of case submission, and by the fourth day, almost all cases were verified. Many of the cases that were not quickly resolved were cases in which employees were not work-authorized.

The percent of Web Basic Pilot cases found work-authorized automatically is considerably higher than the comparable figure from the original Basic Pilot program. In the original Basic Pilot, 79 percent of cases were initially found to be work-authorized by either SSA or INS compared to the 92 percent initially found to be work-authorized in the Web Basic Pilot.

The total percentage of cases found to be work-authorized in the Web Basic Pilot was also higher than in the original Basic Pilot program. The original Basic Pilot provided a final status of work-authorized for 87 percent of all processed cases (74 percent of all cases were found by SSA to be work-authorized and 13 percent were USCIS work-authorization cases). For the Web Basic Pilot, 93 percent of all verification attempts were eventually found to be work-authorized (85 percent by SSA and another 8 percent by USCIS). This improvement is presumably at least in part due to improvements in the SSA and USCIS databases. However, it is also possible that the expansion of the Basic Pilot program to all states has resulted in its being adopted by employers less likely to hire workers without work authorization status.²²

²² This issue will be explored in more depth in the final report.

The Web Basic Pilot did not capture the specific number of unauthorized workers among unresolved cases. Seven percent of all verification attempts were never resolved (labeled “Final nonconfirmation by SSA” or “Final nonconfirmation by USCIS”). In many of these cases, the employee decided not to contest a tentative nonconfirmation response from SSA or USCIS, because they were not work-authorized. However, some of these cases are undoubtedly cases in which the employee failed to contest for some other reason (e.g., they quit the job for reasons unrelated to the program or the employer never informed the employee of the tentative nonconfirmation). Furthermore, the case study indicates that, in some cases, the employee does decide to contest, but the employer does not correctly record the information in the Web Basic Pilot.

4. DID THE WEB BASIC PILOT MEET THE IIRIRA REQUIREMENTS FOR DATA ACCURACY?

Overall, a tentative nonconfirmation finding was issued in less than 1 percent (0.7 percent) of all Web Basic Pilot cases found to be work-authorized at some point in the verification process.²³ Although 0.7 percent is not necessarily an unacceptably high error rate, the rate for foreign-born citizens (10.9 percent) is much higher than this, as discussed in Chapter IV.

The accuracy of the USCIS database used for verification has improved substantially since the start of the Basic Pilot program. However, further improvements are needed, especially if the Web Basic Pilot becomes a mandated national program.

IIRIRA states that “the... [legacy] Immigration and Naturalization Service shall update their information in a manner that promotes the maximum accuracy and shall provide a process for the prompt correction of erroneous information...” (Section 404(g)). USCIS officials reported that although major improvement in the timeliness and accuracy of the USCIS databases have been made, the database used for verification is still not always up to date. The USCIS staff also report that they expect that more expeditious access to data sources and USCIS business and systems transformation efforts currently underway will improve USCIS data accuracy in the future.

The Web Basic Pilot software includes a number of editing features, designed to reduce data entry errors that were not included in the original Basic Pilot. The original Basic Pilot did not include any edit checks to identify even the most obvious data entry errors (e.g., an employee with a birth date in the future or entry of a date that is clearly invalid). As recommended in earlier evaluations, the Web Basic Pilot has incorporated a number of edit features. When improper entries have been made into fields on the verification screen, a red error marker appears next to the field. If improper entries

²³ The final report will include additional information on trends in accuracy rates and will compare the original Basic Pilot results with the Web Basic Pilot.

are submitted without being corrected, error messages will appear that require the entries to be corrected before verification as in the following:

- A hyphenated last name will receive the error message: “Required Last Name must be between 1 and 40 alphabetic characters. Numbers and special characters are not allowed. Spaces, hyphens and quotes are not allowed.”
- A SSN formatted as 123-456-789 will receive the error message: “Required Social Security Number must be of the format ‘nnn-nn-nnnn’, ‘nnn nn nnnn’, or ‘nnnnnnnnn’.”
- A hire date entry of 7/18/1800 will receive two error messages: “Required Hire Date must be greater than or equal to Date of Birth” and “Required Hire Date must be between 11/01/1997 and [current date].”²⁴
- A date of birth entry of 23/5/1982 will receive the error message: “Required Date of Birth must be a valid date in the format of MM/DD/YYYY. The date must be less than or equal to the date [current date].” A similar error message appears if an invalid date has been entered into the hire date field.

These checks represent significant improvements over the original Basic Pilot. However, there is room for further improvements in the edit checks, for example:

- If a date of birth was mistakenly entered as 7/18/1800, no error message appears for an out-of-range entry;
- The edit checks should at least require a “soft edit” when the age of the employee is calculated to be below a specified cut-off age (e.g., 13).²⁵
- The edit for the permissible hire date for employees could be strengthened by using a soft edit that prohibits entering employees hired more than X days earlier (e.g., 30 days).²⁶

Note that edit checks cannot eliminate all data input errors. For example, data input software would not correct for inputting some errors in dates (0508) rather than (0805) or number transpositions in the entry of the SSN. In fact, when the employers were asked about the Web Basic Pilot computer system, 29 percent indicated that it is easy to make errors when entering employee information into the system. While most of the tentative

²⁴ As noted in the recommendations,

²⁵ A “soft edit” provides the user with a warning to recheck the data instead of preventing entry of data, as takes place with a “hard edit.” Soft edits are appropriate when a situation appears unlikely (e.g., a small child may receive income from modeling work; however, occurrences of small children working are rare and most birth date entries indicating a young child will be erroneous entries.)

²⁶ If pending legislation requiring use of the Web Basic Pilot to verify existing employees is passed, this edit check would need to be de-activated.

nonconfirmation findings were not the result of data entry errors, there are a considerable number of tentative nonconfirmations that were due to mistakes when entering the I-9 information into the Web Basic Pilot system. It is possible that additional error checks could further decrease inaccuracies.

According to the employers completing the employer survey, 52 percent had received at least one tentative nonconfirmation finding that was due to data entry mistakes. Of those, 88 percent of employers had had tentative nonconfirmations due to errors that they discovered themselves. Twenty-three percent of employers reported that they also had had data entry errors discovered by SSA or USCIS, and 28 percent reported having had a case in which the employee found the error. Employers could do a better job of double-checking their Web Basic Pilot data before sending the information to SSA and USCIS, since tentative nonconfirmations due to data entry errors are potentially costly for employers, employees, and the Federal Government. The Web Based Pilot added a screen for the employer to verify the information entered before submitting it for verification. However, it appears that this additional step has not eliminated problems due to employer data errors

5. WHAT WERE EMPLOYERS' GENERAL VIEWS OF THE WEB BASIC PILOT DESIGNED AND IMPLEMENTED BY THE FEDERAL GOVERNMENT?

a. HOW SATISFIED ARE EMPLOYERS WITH THE WEB-BASED PILOT PROGRAM?

A number of the modifications to the original Basic Pilot that were implemented in the Web Basic Pilot were made to address problems identified by employers in earlier evaluations. For example, web-based access responds to employer problems and costs encountered in installing software required to use the original Basic Pilot on the employer's computer.

Employers expressed satisfaction with many aspects of the Web Basic Pilot. When employers were asked to rate their experiences with the Web Basic Pilot system registration and start-up process, almost all (99 percent) reported the online registration process was easy to complete and most (87 percent) indicated that the registration did not consume much of their time (Exhibit III-7). In addition, employers reported that the online tutorial provided adequate information about the use of the system (85 percent), adequately prepared them to use the system (96 percent), and was easy to use and understand (97 and 98 percent, respectively).

Exhibit III-7: Employer’s Experience With the Web Basic Pilot Registration and Start-up

Category	Strongly agree (%)	Agree (%)	Disagree (%)	Strongly disagree (%)
The online registration process was easy to complete	39.3	59.3	1.3	0.1
The online registration process was too time consuming	2.4	11.0	72.9	13.6
During the registration process it was difficult to figure out the correct industry code to use	4.5	21.2	65.9	8.4
The content of the online tutorial was easy to understand	28.1	69.7	1.8	0.4
The online tutorial was hard to use	0.2	2.6	75.9	21.2
The tutorial adequately prepared us to use the online verification system	29.8	66.5	2.9	0.8
The tutorial answers all of our questions about using the online verification system	20.8	64.3	13.8	1.1
The tutorial takes too long to complete	3.8	17.8	67.9	10.5
It is burden to have to pass the Mastery Test before being allowed to use the online verification system	2.7	13.1	64.9	19.3
It is important to have to pass the Mastery Test before allowed to use the online verification system	42.8	49.2	7.0	1.0
It is easy for system users to obtain a lost or forgotten password from the system helpdesk	17.5	63.6	14.4	4.5
The available Web Basic Pilot system reports cover all of our reporting needs	20.4	70.6	7.5	1.6

SOURCE: Web Basic Pilot Employer Survey

When employers were asked about the resources and features that are provided as part of the Web Basic Pilot system, more than 63 percent reported that the toll-free telephone number for the helpdesk, reports to monitor the status of employee cases, and the online tutorial were very helpful resources to complete the verification process (not shown in table).

The technical changes made in the Web Basic Pilot appear to have resulted in reduced employer burden and improved *employer* satisfaction. When employers were asked what direct costs the establishment incurred in setting up the pilots, computer hardware is cited by only 9 percent of those who responded to the Web Basic Pilot employer survey, compared to 37 percent of employers who responded to the original Basic Pilot employer survey. Similarly, 15 percent of employers reported computer maintenance as an annual direct cost in the Web Basic Pilot survey compared to 42 percent of employers who cited computer maintenance as an annual direct cost incurred to maintain the pilot in the original Basic Pilot survey.

Another indication that the Web Basic Pilot handles the verification process more efficiently than the original Basic Pilot was that when employers were asked to rate the extent to which establishing employment eligibility became a burden because there were so many tentative nonconfirmations only 5 percent of employers that responded to the Web

Basic Pilot survey agreed or strongly agreed, compared to 15 percent of employers that responded to the original Basic Pilot survey. This decrease may be attributable, at least in part, to increased accuracy in SSA and USCIS databases rather than attributable to programmatic changes.

Further, a large majority of the employers surveyed (88 percent) that have had experience with both the original Basic Pilot and the Web Basic Pilot reported that the benefits of the Web Basic Pilot verification system are stronger, compared to the original Basic Pilot. In addition, as shown in Exhibit III-8, more than 70 percent of the employers reported that the Web Basic Pilot is much better on the time required to verify and technical features (i.e., ease of connecting to the government database). Sixty-two percent reported that the Web Basic Pilot entails much less burden for verification, compared to the original Basic Pilot. In addition, 60 percent suggested that the tutorial in the Web Basic Pilot is improved considerably over the original Basic Pilot. About 34 percent reported there is no difference in verification costs between the Web Basic Pilot and the original Basic Pilot, and 30 percent indicated the reliability of verification is about the same between the Web Basic Pilot and the original Basic Pilot.²⁷

Exhibit III-8: Employers’ Evaluation of the Web Basic Pilot in Comparison to the Original Basic Pilot

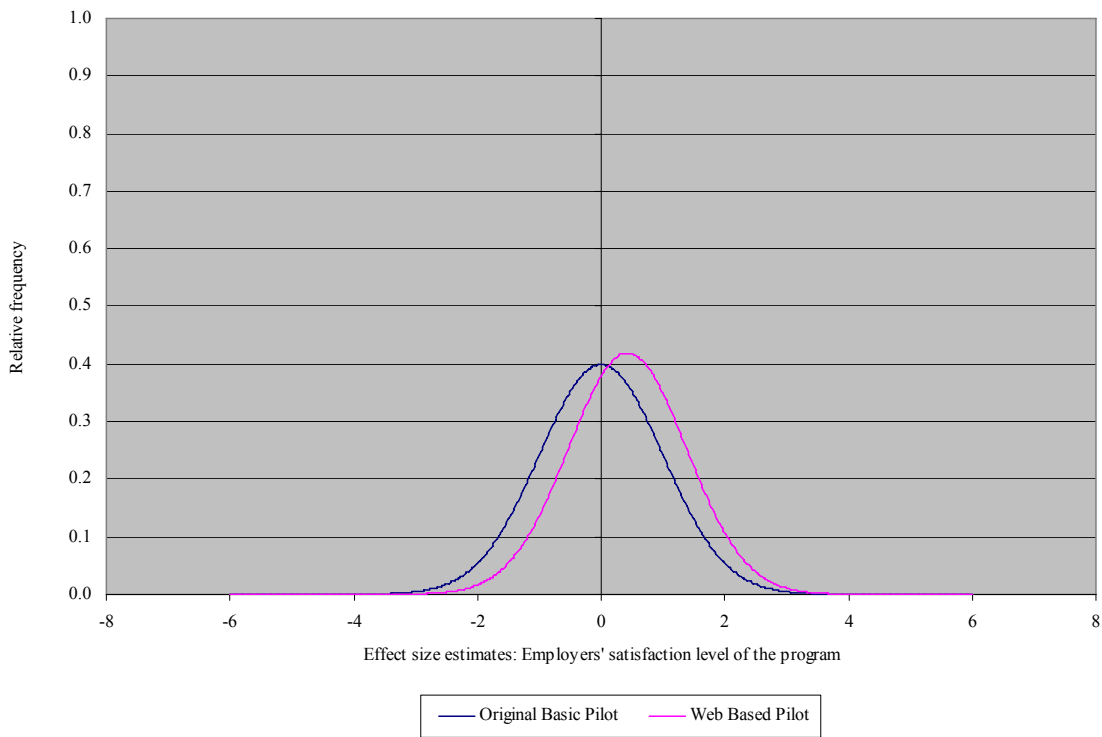
Category	Web Basic Pilot is much better (%)	Web Basic Pilot is somewhat better (%)	No difference (%)	Original Basic Pilot is somewhat better (%)	Original Basic Pilot is much better (%)
Time required to verify	72.2	13.0	13.5	0.7	0.6
Technical features	70.9	18.4	10.7	0.0	0.0
Burden of verification	62.2	10.6	26.5	0.4	0.4
Tutorial	60.7	24.5	14.0	0.4	0.4
Verification costs	55.9	9.7	33.9	0.2	0.2
Reliability of verification	55.6	13.8	30.0	0.4	0.2
Other available resources	48.9	21.8	28.4	0.6	0.2
Other	52.0	16.0	32.0	0.0	0.0

SOURCE: Web Basic Pilot Employer Survey

The results of the analyses based on the satisfaction scale developed for this report also indicate that there was a significant improvement in employer satisfaction with the Web Basic Pilot compared to the original Basic Pilot. Exhibit III-9 shows the normal distribution of satisfaction scores for the two programs. The effect size estimate of 0.4 (on a scale ranging from 0 to 1) suggests there is a medium-size difference between the satisfaction level with the Web Basic Pilot and the original Basic Pilot.

²⁷ Additional analyses of employer responses to questions comparing the Web Basic Pilot program and the original Basic Pilot program are planned for the final report.

Exhibit III-9: Frequency Distributions of Scores for Employers' Satisfaction with the Web Basic Pilot and with the Original Basic Pilot



SOURCE: Web Basic Pilot Employer Survey

Additional information of relevance to understanding how satisfied employers are with the Web Basic Pilot was obtained in the case studies. All five case study employers reported being somewhat satisfied to being very satisfied with the Web Basic Pilot program. These employers reported very few difficulties with the online system itself. None of the employers encountered any problems with registering for the Web Basic Pilot program or any ongoing technical problems. Furthermore, although they were not directly asked which they preferred, none of the three case study employers that had used the original Basic Pilot prior to the Web Basic Pilot indicated that they liked the original better.

b. WHAT DID EMPLOYERS PERCEIVE AS ADVANTAGES AND DISADVANTAGES OF THE WEB BASIC PILOT?

This section examines responses to the web survey and employer case study interviews to questions about the advantages and disadvantages to employers of using the Web Basic Pilot, including questions that deal with the experiences with the system registration and start-up process, resources and features of the system, and the system navigation.

Most employers found the Web Basic Pilot to be an effective and reliable tool for employment verification. When employers were asked to rate their experiences with the Web Basic Pilot, 90 percent surveyed agreed or strongly agreed that the Web Basic Pilot is

an effective tool for employment verification. In addition, 88 percent agreed or strongly agreed that the Web Basic Pilot reduces the chances of getting a mismatched SSA earnings letter.

Employers generally indicated that the Web Basic Pilot was not burdensome. The vast majority of employers (96 percent) disagreed or strongly disagreed that the tasks required by the system overburden the staff (Exhibit III-10). Furthermore, although not shown here, 70 percent of employers reported the Web Basic Pilot was very user-friendly and an additional 29 percent indicated the Web Basic Pilot was somewhat user-friendly on the system navigation and data entry.

Exhibit III-10: Employers’ Opinions About Their Experiences with the Web Basic Pilot

Opinion	Strongly disagree (%)	Disagree (%)	Agree (%)	Strongly agree (%)
The tasks required by the verification system overburden the staff	39.0	56.8	2.6	1.7
It is impossible to fulfill all the employer obligations required by the Web Basic Pilot verification process	39.9	55.3	3.0	1.8
Overall, the Web Basic Pilot is an effective tool for employment verification	6.5	2.9	28.6	62.0
It reduces the chances of getting a mismatched SSA earnings letter	6.6	5.8	34.6	53.0

SOURCE: Web Basic Pilot Employer Survey

The general enthusiasm employers expressed in the web survey was also reflected in most of the responses of the case study employers. For example, one case study employer reported a high level of confidence in the Web Basic Pilot and called the system efficient and precise. Another case study employer stated that the benefits of using the system greatly outweigh the costs of maintaining the system.

Although the improvements made to the original Basic Pilot and the benefits of the Web Basic Pilot were stressed by most employers, some employers reported experiencing some difficulties with the Web Basic Pilot. Eleven percent of employers who responded to the employer survey reported that they had encountered difficulties with using the Web Basic Pilot, such as unavailability of the system during certain times (13 percent), accessing the system (12 percent), or training new staff to do verifications using the system (12 percent). Employers also identified other problems of the Web Basic Pilot system, such as problems related to passwords or cases with tentative nonconfirmations. Exhibit III-11 provides some examples of problems that employers reported in the employer survey.

Exhibit III-11: Examples of Difficulties With the Web Basic Pilot That Employers Encountered

Constantly having to get my password reset; after resolving a case, it will not let me use the back button to get back to the logout menu.

Forgetting passwords and then being locked out, and having to wait until a new password can be issued.

Having to check back for tentative nonconfirmations is a burden. An email should be sent when a result comes through. Also, it is very difficult for employees to find a way to reach USCIS if they are referred to them.

Legal questions in regards to being in compliance with the laws set forth. Some of the questions are just not answered in the handbook or online.

Meeting the requirements of the Tentative Nonconfirmation letters and waiting periods.

Not able to open Tentative Nonconfirmation Cases to edit if an error was inputted. Forced to reenter the entire verification online and then go back to the invalid query and resolve it.

Occasionally someone with a good authorization card does not initially pass the Basic Pilot but does at a later date. System sometime doesn't have current information.

Program only verifies first seven letters of the last name and the first letter of the first name. Also, if a verification needing INS verification the program does not update the status as indicated.

Sometimes it shows non-confirmation, our employee goes to SSA or USCIS, they say they match but still the program says non-confirmation

We have encountered difficulties when staff has questions in regard to unique situations---sometimes help desk personnel does not know the answers.

When immigration is still being checked, the system never alerts us that there has been either the approval or the denial.

With the verification itself, especially for new employees on a specific visa type, refugees and employees who have obtained US Citizenship.

SOURCE: Web Basic Pilot Employer Survey

Some employers believe that they lose their training investment as a result of electronic employment verification through the Web Basic Pilot process. IIRIRA requires employers to wait up to a total of 10 Federal working days for employees to contest their cases and for SSA or USCIS to issue a final case finding. The Web Basic Pilot prohibits employers from dismissing or withholding training from these employees during this period. One case study employer found this process disadvantageous because they had to invest in hiring and training employees without certainty that these new workers would be able to continue employment. This employer reported a higher turnover rate as a result of using the Web Basic Pilot, and significant costs due to providing training, safety equipment, and handbooks to so many employees who were ultimately lost due to Final Nonconfirmation findings.

c. WHAT ARE THE EMPLOYER COSTS FOR THE WEB-BASED PILOT PROGRAM?

The Web Basic Pilot was designed to be much simpler and less expensive to set up and operate than the original Basic Pilot program that required users to install specified software on a dedicated computer and required use of a modem with specified parameters to communicate with the Federal database. Web Basic Pilot employers estimate that they spent an average of approximately \$125 for setting up the Web Basic Pilot and \$727 annually for operating the program. This is considerably less than the comparable figures for the original Basic Pilot program. The original Basic Pilot employers reported that they spent \$777 (\$916 in 2006 dollars) for set up and \$1,800 (\$2,121 in 2006 dollars) annually for operating costs.²⁸

C. IS ELECTRONIC EMPLOYMENT VERIFICATION THROUGH THE WEB BASIC PILOT WORKING BETTER THAN WHEN THE ORIGINAL BASIC PILOT EVALUATION WAS CONDUCTED?

1. TRAINING IMPROVEMENTS

Training materials and requirements to pass the tutorial were improved. In implementing the Web Basic Pilot, modifications were made to the original Basic Pilot to increase employer compliance with the requirements of the pilot program. The primary modifications were enhancements to the training materials available to employers, including a mandatory online tutorial, and the requirement that employers must pass a Mastery Test on pilot procedures prior to using the system. These changes were consistent with prior evaluation recommendations.

System testing revealed that it was not possible for new users to access the verification screens prior to viewing all screens of the tutorial and passing the Mastery Test. However, on the Mastery Test, once a user received an “incorrect answer” response, it was possible for the user to use the “back button” at the top of the Internet browser to access the previous screen and re-submit a different answer until the correct answer has been selected. This enables new users to pass the test without understanding the correct procedures. When a user gave incorrect answers on the Mastery Test but subsequently passed the overall test, the user also was not provided with the correct responses to the questions answered incorrectly.

Additional changes to the tutorial could potentially further improve its effectiveness:

- The program could further improve employers’ understanding of the Web Basic Pilot processes by providing and explaining answers to any questions answered incorrectly.

²⁸ Estimates of 2006 dollars were made using the Bureau of Labor Statistics Inflation Calculator (<http://data.bls.gov/cgi-bin/cpicalc.pl>).

- Periodic retesting and, if need be, refresher training could help ensure that material is not forgotten.
- Training modules for staff other than direct users (e.g., human resources management) could help prevent procedural violations that are not the responsibility of most of the system users. For example, management needs to be aware that they may not take adverse actions during the period the employee is resolving a tentative nonconfirmation.

2. COMPARISON OF WEB BASIC PILOT AND ORIGINAL BASIC PILOT OUTCOMES

In the original Basic Pilot, employers made 364,987 verification attempts between November 1997 and December 1999 (Exhibit III-12). The SSA determined the work-authorization status of 86 percent of these cases and USCIS determined the work-authorization status for the remaining 14 percent of the cases. In the Web-based Basic Pilot, 798,533 cases were processed between June 2004 and September 2005 to determine their work-authorization. Ninety-two percent of them were processed by the SSA while only 8 percent of transactions were referred to USCIS. This finding suggests that SSA increased its ability to determine the work-authorization status of a much larger percent of the cases. At least some of this improvement is presumably due to improvements in the SSA data file. However, changes in the types of employers and their employees enrolled in the program may also contribute to the trends.²⁹

The other case outcome findings for the pre-October 21 cases also suggest that the Web-based Basic Pilot is functioning better than the original Basic Pilot program did from 1997 to 1999. For example, the percentage of cases authorized automatically by SSA and USCIS both increased. For SSA, the increase was from 70 percent to 86 percent for the pre-October 21 cases and for USCIS, it went from 61 percent to 72 percent. There were corresponding decreases in the percentage of cases found work-authorized other than by using automated matches. These improvements presumably reflect reported database improvements.

3. DID THE OCTOBER 21 PROCESSING CHANGE IMPROVE THE PROGRAM'S ABILITY TO DETECT EMPLOYEES WITHOUT WORK AUTHORIZATION?

As indicated previously, a significant procedural change affecting the verification of noncitizens was implemented on October 21, 2005. Prior to the changed procedures, persons attesting to being work-authorized noncitizens were found to be work-authorized if SSA records contained adequate information to confirm they had permanent work-authorization status. After procedures were changed, all noncitizen cases having information on name and date of birth that are consistent with the SSN in SSA's records are referred to USCIS, regardless of the work-authorization information in SSA records.

²⁹ Additional analyses are planned for the final report to shed light on this.

Exhibit III-12: Outcome Comparison Between Original Basic Pilot and the Web Basic Pilot

Outcome	Original Basic Pilot	Web Basic Pilot	
	Nov. 97 thru Dec. 99	June. 04 thru Sept. 05	Oct. 05 thru March 06
Total transactions	364,987	798,533	540,194
SSA portion of transactions	86%	92%	88%
USCIS portion of transactions	14	8	12
Outcome (SSA portion)	364,987	798,533	540,194
Initial work-authorized by SSA	70%	86%	83%
Work-authorized by SSA after two or more attempts	4	1	0
Final nonconfirmation by SSA	12	6	5
Cases that were referred to USCIS	14	8	12
Outcome (USCIS portion)	52,347	60,787	62,581
Initial work-authorized by USCIS	61%	72%	77%
Work-authorized by USCIS at second attempts	29	12	7
Work-authorized by USCIS at third attempts	2	2	2
Work not authorized by USCIS	0	0	0
Final nonconfirmation by USCIS	8	14	14

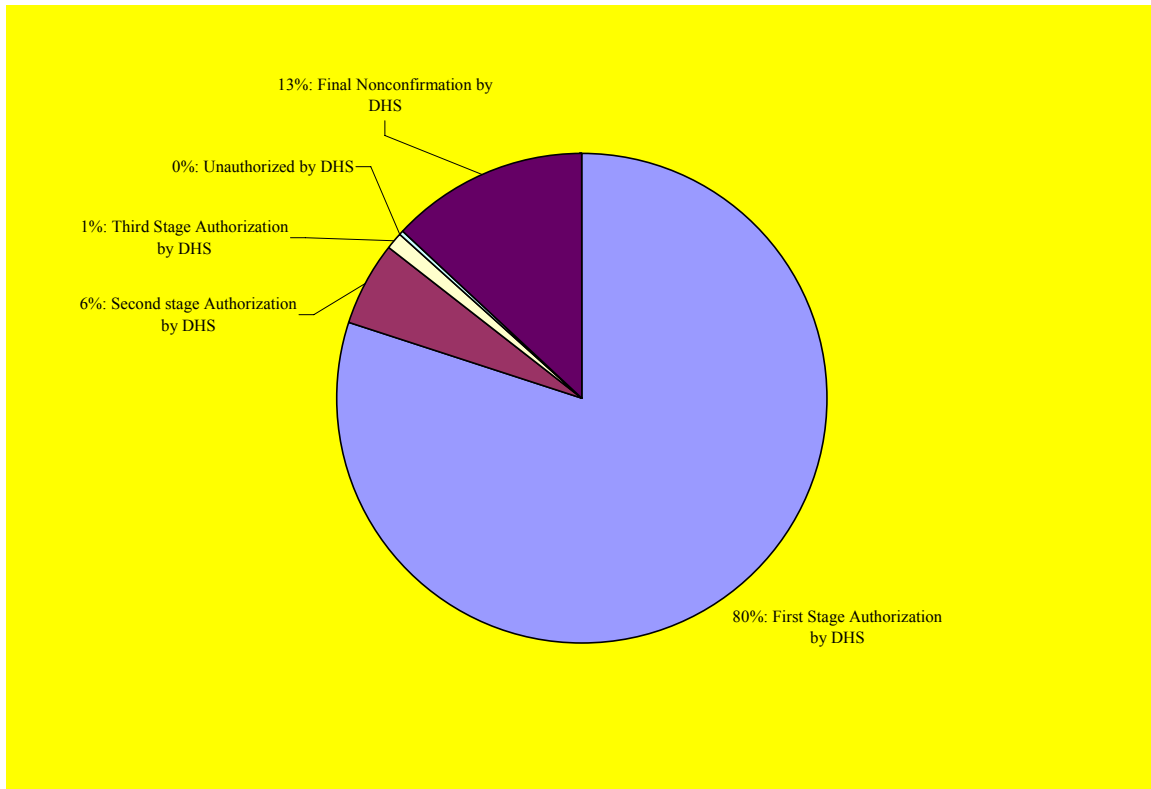
NOTE: Nine cases in continuance at the time of file creation are excluded (eight during June 04 and Sept. 05; and 1 during Oct. 05 and March 06). Details do not add to total because of rounding.

SOURCE: Web Basic Pilot Transaction Database

Exhibit III-13 provides an overview of the findings for post October 20 cases that would have received a work-authorized finding if the procedures had not been changed. It is seen there that most cases that SSA would have found to be work-authorized under the pre-October 21 system were also found to be work-authorized under the new procedures. However, 13 percent of the cases were either found to be not work-authorized or became final nonconfirmation cases.

Most noncitizen cases that would have been found to be work-authorized by SSA under the old procedures were also found to be work-authorized using the post-October 2005 procedures. Exhibit III-14 provides a breakdown of the outcomes by whether the SSA work-authorization finding would have been at the first or second stage. Among the 33,524 noncitizen cases that would have been found work-authorized by SSA at first stage, 80 percent (26,801) were found to be work-authorized by USCIS based on the USCIS automated match. For these cases, there is neither an increase in cost per case for processing under the current billing system nor any increase in burden for employers or employees. There is, of course, also no change in the accuracy of the findings for these cases.

Exhibit III-13: Outcomes for Cases Processed Under the New Procedures That Would Have Received an SSA Finding of Work-authorized Under the Old Procedures (October 21, 2005 thru March 2006)



SOURCE: Web Basic Pilot Transaction Database

Exhibit III-14: Case Findings of Post-October 20 Noncitizen Cases That Would Have Been Authorized by SSA as First or Second Stage SSA Work-authorized

Finding if case had been processed under pre-October 21 rules	Actual case finding					
	First stage authorization by USCIS	Second stage authorization by USCIS	Third stage authorization by USCIS	USCIS final nonconfirmation	Unauthorized by USCIS	Total
First stage SSA						
Number	26,801	1,906	381	4,380	56	33,524
Percent	79.9	5.7	1.1	13.1	0.2	100
Second stage SSA						
Number	79	2	3	2	0	86
Percent	91.9	2.3	3.5	2.3	0.0	100
Total						
Number	26,880	1,908	384	4,382	56	33,610
Percent	80.0	5.7	1.1	13.0	0.2	100

SOURCE: Web Basic Pilot Transaction Database

Approximately 6 percent of the noncitizen cases that would have received a first stage SSA authorization finding using the pre-October 21 rules were authorized by USCIS at the second stage. These cases incurred an additional 48 cents system processing fee plus costs for the manual verification process performed by Immigration Status Verifiers. However, the only impact of this extra step on employers and employees would be a delay of approximately one day in obtaining information on the work-authorization status of the employee.

Only 1 percent (381) of the cases that would have been found work-authorized at the first stage by SSA became third stage USCIS work-authorized cases under the new rules. In these cases, employees and employers incurred the burdens associated with erroneous tentative nonconfirmations and the Federal government incurred additional processing expenses.

It seems likely that the revised procedures have resulted in identifying more persons without work-authorization than was true under the prior procedures. A small number (56 or 0.2 percent) of the cases that would have been first stage SSA work-authorization cases under the pre-October 21 rules were found to be unauthorized by USCIS and another 13 percent became USCIS final nonconfirmation cases. Although probably not all of these final nonconfirmation cases lacked authorization to work, based on the prior IIRIRA pilot evaluation findings, it is likely that a high percent are not work-authorized. It, therefore, appears that the revised process is more effective than the previous process in identifying additional employees without work-authorization.

D. HAVE EMPLOYERS GENERALLY COMPLIED WITH WEB BASIC PILOT REQUIREMENTS?

1. INTRODUCTION

This section explores the extent to which employers complied with the Web Basic Pilot requirements. Most of the analysis is based on employers' self-reported behavior. Even though employers were given assurances that information provided would be kept confidential, it is possible that employers not adhering to required procedures under-report such noncomplying behavior. The case study provides some insights on whether this is true. Although respondents generally appeared to be candid in their responses about non-compliant behavior, it was clear that, at least for some large employers, the central office respondent was not aware of what was actually happening in the field locations where procedures were implemented.

2. DID EMPLOYERS FOLLOW THE TRAINING PROCEDURES IMPLEMENTED FOR THE WEB BASIC PILOT?

Not all employers followed the Web Basic Pilot procedures with respect to training employees on the Web Basic Pilot system. When asked how many staff had completed the Web Basic Pilot online tutorial, 84 percent of employers indicated that all staff that currently used the system for verification had completed the tutorial. This percentage was not 100 percent because it is possible for staff members who have not completed the

tutorial to use the user name and password of a coworker who has completed the tutorial. Only 1 percent of employers indicated that no current system users had completed the tutorial.

3. DID EMPLOYERS USE THE DATABASE TO VERIFY *ALL* NEWLY HIRED WORKERS AND *ONLY* NEWLY HIRED WORKERS?

A majority of employers that used the Web Basic Pilot reported that they used it to verify all of their newly hired employees. The majority of employers (85 percent) used the Web Basic Pilot to verify all new employees—including employees who claimed to be U.S. citizens and employees who claimed to be noncitizens. All five case study employers indicated that they also used the Web Basic Pilot for all new employees.

Some employers used the Web Basic Pilot to screen job applicants. When asked for whom they used the Web Basic Pilot to verify work authorization, 16 percent of employers in the Web survey reported that they used the Web Basic Pilot for job applicants. In addition, almost one-third (31 percent) of employers reported that they used the Web Basic Pilot to verify work authorization before an employee's first day of paid work. This second finding suggests that even though some employers may be using the system correctly to verify hired employees, they might not allow these employees to start work if they don't receive a work-authorized response.

Two case study employers used the system to screen job applicants before they allowed them to start working for the company. Neither employer gave any indication that they were aware of their misuse of the system. In fact, one employer indicated that the only time that they were not able to follow proper procedure is when they had to first hire employees and have them start working before they had time to enter the employees' information into the Web Basic Pilot. This same employer expressed the opinion that all employers should be required to use the system to prescreen job applicants. Employee interviews with these two employers revealed that neither employer followed a consistent hiring and verification process, but it was clear that employees at both sites were sometimes screened before being allowed to work.

Employers who screened job applicants often notified applicants who received tentative nonconfirmations, providing them with an opportunity to resolve problems and be hired after resolving the tentative nonconfirmation. One of the reasons for prohibiting verification of job applicants is that these persons are likely to be denied employment without having an opportunity to contest tentative nonconfirmation findings. However, at least some employers who do verify prior to hiring employees also notify these job applicants of the problem.

Among the 16.5 percent of web survey employers that indicated that they used the system to screen job applicants only 2.5 percent reported that they did not usually notify employees of tentative nonconfirmation findings. The majority (84 percent) of these employers notified applicants on the same day that they received the finding.

Of the two case study employers that screened job applicants found to have the skills required for the jobs applied for, one employer notified most applicants who received tentative nonconfirmation findings immediately and instructed them that they could go to SSA or USCIS to correct a problem with their paperwork. Most work-authorized applicants who were interviewed from this employer resolved the issues with their records, returned to the employer, and were hired.

The second case study employer that screened job applicants did not tell most applicants about problems with their paperwork. However, several applicants were hired regardless of tentative nonconfirmation findings and were never told of problems with their paperwork.

Many of the employers that screened job applicants were personnel or temporary help agencies. Of all employers who reported that they used the Web Basic Pilot to screen job applicants, 37 percent were personnel or temporary help agencies. A temporary help agency may consider the employee to be hired at the time the employee is deemed to be acceptable for job referral. One staffing agency commented on the survey that everyone who meets their hiring criteria and completes an I-9 form is considered an employee and they verify all employees at that time, regardless of when or if the employee receives paid work. There were no personnel or temporary help agencies among the case study employers.³⁰

Employers could not always verify new employees' information with the Web Basic Pilot within 3 days of the employees' hire dates. Although most employers (72 percent) reported that they used the system within the specified timeframe, the case studies revealed some difficulties with adhering to this requirement. Of the three case study employers that correctly used the system to verify only newly hired employees, two employers reported that they frequently had trouble entering employees' information within three days of their hire dates. Both employers were large employers where employees were hired at various departments or work sites. As a result, the hiring paperwork (including application packages, I-9 forms, and photocopied documents) frequently would not arrive at the Human Resources office in time for Human Resources staff to enter each new employee's information into the Web Basic Pilot system within three days of their hire dates. Both employers strongly recommended extending this timeframe.

Information in Exhibit III-15 from the transaction database confirms that employers were generally inputting employee information into the Web Basic Pilot system promptly—48 percent of cases were entered on the date the employee was hired and another 36 percent were entered within a week of hire.³¹ However, 11 percent of the transactions were for employees that had been hired more than a week before the transaction was submitted.

³⁰ Personnel and temporary help agencies were excluded from the case study, because procedures for these employers are more difficult to articulate. Future data collection efforts are expected to include these employers as well.

³¹ The distribution is based on calendar days, which means that some of the cases entered within a week were entered more than 3 Federal work days after the hire date.

Exhibit III-15: Calendar Days Between Hire Date and Initial System Entry Date

Category	Number	Percent
All transactions, total	1,338,736	100.0
The same day	646,541	48.3
Within 7 days	480,531	35.9
Within 14 days	84,231	6.3
Within 21 days	33,496	2.5
Within 30 days	23,493	1.8
More than 30 days	70,444	5.3

SOURCE: Web Basic Pilot Transaction Database

Very few employers used the Web Basic Pilot to verify employees hired before they enrolled in the Web Basic Pilot. Only 5 percent of employers in the web survey reported that they used the system to verify the work authorization of employees who worked at the establishment prior to the institution of the Web Basic Pilot program. Furthermore, the transaction database information also indicates that a limited amount of screening of existing employees is occurring—5 percent of cases were entered more than 30 days after hire. There was no evidence that any of the five case study employers used the Web Basic Pilot system to verify pre-existing employees.

4. DID EMPLOYERS TERMINATE THE EMPLOYMENT OF THOSE EMPLOYEES WHO RECEIVED FINAL NONCONFIRMATIONS OR UNAUTHORIZED FINDINGS?

Employers do not always follow the legal requirement to promptly terminate the employment of employees receiving final nonconfirmations. Three case study employers reported proper procedures for terminating employees who were not work-authorized or otherwise decided not to contest a tentative nonconfirmation finding. However, one of the three employers expressed confusion over situations where employees who have contested the tentative nonconfirmation findings with SSA still receive Final Nonconfirmations from the system. The employer reported that since these employees had received “letters indicating that the social security numbers were valid” from the local SSA office, the employer relied on the letter from the local SSA office rather than the Web Basic Pilot finding. The employer felt that this discrepancy was a problem with the system that needed to be addressed by SSA and USCIS.

At two of the case study employers terminations were often delayed because the Human Resources staff employers relied on department staff to implement the termination which often led to delays in the process. Employee interviews revealed that supervisors at one of the establishments frequently manipulated the contesting process to prolong the amount of time that unauthorized employees could continue to work for the employer. Supervisors frequently did not terminate employees when told to do so, and often told Human Resources staff that they could not afford to lose a worker at that time. The two case study employers that used the system primarily to screen job applicants rarely encountered a time when they were supposed to terminate a working employee due to the tentative nonconfirmation process. Both employers reported that they would terminate any employees who were not work-authorized.

Some employers did not consistently follow-up on tentative nonconfirmation findings.

Two case study employers that prescreened employees sometimes ignored the tentative nonconfirmation findings and hired applicants without telling them about problems with their verification. One case study employer sometimes “ignored” tentative nonconfirmation findings if they did not think the tentative nonconfirmation findings were accurate. A second employer reported confusion over the results provided by USCIS and was sometimes not sure whether an employee was authorized or not. Employee interviews revealed that this employer sometimes hired these employees without telling them of the tentative nonconfirmation findings.

5. DID EMPLOYERS PROVIDE JOB APPLICANTS AND EMPLOYEES WITH THE INFORMATION AND ASSISTANCE THEY NEEDED?

The Web Basic Pilot MOU requires employers to post Web Basic Pilot and right-to-work posters to alert job applicants to the program and their rights. The MOU also requires employers to provide employees receiving a tentative nonconfirmation with written notice of this finding, along with notification of their right to contest.

Employers did not consistently post the Web Basic Pilot notice in an area where it is likely to be noticed by job applicants. Three case study employers displayed the Web Basic Pilot Poster in their Human Resources offices; however, at two of these employers the application process occurred at the department-level so applicants would most likely not see the poster at the time of application. Two employers did not display the poster anywhere, but one of these employers did include a notice on their job postings that informed applicants that the Web Basic Pilot system would be used to verify work authorization.

Some employers did not notify employees of tentative nonconfirmation findings at all or did not notify employees in writing. The tentative nonconfirmation notice provides employees with critical information about their right to contest the finding and the implications of not contesting. Employees deciding to contest are given a referral form that explains the procedures for resolving tentative nonconfirmation findings with SSA or USCIS.³² Both SSA and USCIS notices also explain to employees that employers cannot take adverse actions against employees while they are contesting the tentative nonconfirmation.

Many employers (84 percent) always provide written notification of tentative nonconfirmation findings. This is the same percentage of employers that reported always providing written notification during the original Basic Pilot evaluation. Although not required, 81 percent of employers also reported that they always provide in-person notification of tentative nonconfirmation findings—this was also the same percentage that was found during the original Basic Pilot evaluation. Three of the five case study employers provided written notification by using the Tentative Nonconfirmation Notices

³² Refer to Appendix H for copies of the referral forms.

provided by the system, and four of the five employers notified employees in person. The fifth employer did not regularly notify employees at all.

The case studies revealed that most but not all interviewed employees who had received a tentative nonconfirmation reported that they had been notified of a problem with their paperwork—either written or verbal. In addition to the three employers that provided employees with written notice, another employer reported that they turned the computer monitor to show the applicant the computer screen indicating a tentative nonconfirmation finding. The fifth case study employer rarely told applicants of a problem with their paperwork and when they did, they did not provide the tentative nonconfirmation notice or any information about contesting options.

Even though most employers notified employees of the tentative nonconfirmation findings, they did not always explain the meaning of the tentative nonconfirmation or the employees’ options. One case study employer printed the notices for employees to sign, but employees frequently indicated that they were just told to sign the paper “so they could work longer.”

There was evidence that a small number of Web Basic Pilot employers discouraged employees with tentative nonconfirmations from contesting. On the employer survey, only 5 percent of employers indicated that they did not encourage employees to contest tentative nonconfirmations because the process required too much time, and/or employment authorization rarely results. This is significantly lower than the 17 percent of employers that indicated that they did not encourage employees to contest for the same reasons in the original Basic Pilot evaluation.

There was no evidence from the case studies that employers actively discouraged the contesting process, although not all employers provided all employees with sufficient information to successfully contest their tentative nonconfirmation findings.

6. DID EMPLOYERS TAKE ADVERSE ACTIONS AGAINST EMPLOYEES RECEIVING TENTATIVE NONCONFIRMATIONS WHILE THEY WERE CONTESTING THE FINDING?

Some employers took adverse actions against employees while they were contesting tentative nonconfirmations. Results of the employer survey indicate that 19 percent of employers restricted work assignments while employees were contesting a tentative nonconfirmation finding—a significantly lower percentage than the 30 percent of employers who indicated that they restricted work assignments on the original Basic Pilot evaluation. However, during the Web Basic Pilot evaluation, some employers also reported that they delayed training until after employment authorization is confirmed (14 percent), and a few employers reduced pay (2 percent). None of these practices are consistent with the Web Basic Pilot guidelines for employers.

The three case study employers that did not prescreen job applicants all allowed employees to continue working during the contesting process without any delay in training, reduction of pay, or limitation of work assignments. However, employees from one employer reported being taken advantage of by their supervisors. Most employees who reported

mistreatment also reported that they were not authorized to work; however, one employee who was work-authorized reported that he received harsher treatment because the supervisor assumed he was an unauthorized worker. Employees reported that the supervisors assumed that all employees who received tentative nonconfirmation findings were unauthorized workers and therefore took advantage of these employees by requiring them to work longer hours and work in poor conditions.

One case study employer that screened job applicants did not hire, train, or provide uniforms to applicants who received tentative nonconfirmation findings, but the employer did have a process in place for applicants to contest the tentative nonconfirmation findings. Employees who successfully contested their findings and were eventually hired by the employer did not report being treated any differently from other employees after hiring.

The fifth employer was inconsistent in its practices—but reported that it did not hire applicants with tentative nonconfirmation findings unless the finding was believed to be inaccurate. None of the interviewed employees reported any mistreatment from the employer.

7. DID EMPLOYERS FOLLOW OTHER WEB BASIC PILOT VERIFICATION PROCEDURES?

Many employers did not comply with the Web Basic Pilot procedure of entering closure codes for all cases. Although the Web-based Basic Pilot procedures require that employers provide the closure codes that explain why the tentative nonconfirmation results were unresolved, the Basic Pilot system does not force the user to enter such codes. As mentioned earlier, 28 percent of USCIS final nonconfirmation cases have no closure codes. In SSA final nonconfirmation cases, 36 percent did not have closure codes.

Only three case study employers made an effort to close all Web Basic Pilot cases with closure codes. A fourth employer was aware that they should be closing all cases but felt that the process was too time consuming. The fifth employer was unaware that they should be closing cases and did not know how to do so.

Although failure to input codes has little consequence for employees, it reduces available information about case outcomes and therefore impedes the evaluation and monitoring of the program. Although this issue has been raised in previous evaluation reports, it will be much more critical if a mandatory employment verification program is instituted, when more extensive employer monitoring, using the transaction data, will be implemented.

Employers often did not enter a referral date and therefore did not officially refer employees who received tentative nonconfirmation findings to SSA or USCIS through the online system. When employees inform employers that they will contest tentative nonconfirmation findings, employers are required to refer the case to SSA or USCIS through the Web Basic Pilot system. The referral date is automatically recorded in the system and becomes the starting date for the 10 Federal-working-day period for resolution of tentative nonconfirmations. Transaction database analyses indicate that employers referred only 27 percent (4,571 cases) of the USCIS 16,932 final nonconfirmation cases.

From the information on the transaction database, it is not clear what percentage of the tentative nonconfirmation cases without referral dates are attributable to employees not contesting the finding, what percentage are attributable to employers' not properly informing employees about their tentative nonconfirmation findings, and what percentage are due to failure to refer cases through the system.³³ Only three of the five case study employers initiated referrals through the Web Basic Pilot system. One of the two employers who did not initiate referrals was instructing employees to correct their verification problems with SSA or USCIS but not following the procedures set out for the referral.

Regardless of whether automated employment verification becomes mandatory, it would be helpful to revise the closure codes. The goal of these revisions would be to reduce employer confusion about the meaning of the codes and to provide additional information for future evaluations and monitoring efforts. For example, there is no specific code for employees whose employment was terminated because they decided not to contest the tentative nonconfirmation. There is also no code to indicate that employees quit working immediately after being notified that they received a tentative nonconfirmation.

E. WHAT RECOMMENDATIONS FOR IMPROVEMENTS TO THE WEB-BASED BASIC PILOT WERE MADE BY EMPLOYERS?

Employers made several recommendations for improvements to both the overall Web Basic Pilot process and the administrative features of the online system. Based on their hands-on experience in using the Web Basic Pilot in an employment setting, the web survey and case study employers were in a position to suggest changes to both the Web Basic Pilot process and the administrative features of the online system that would make the Web Basic Pilot more practical and user-friendly for all employers.³⁴

- **Employers recommended that the requirement to enter employees' information into the Web Basic Pilot system within three work days be lengthened.** Some large employers felt that the requirement that employees' information be entered into the Web Basic Pilot within 3 work days of hire was impractical for large employers with multiple hiring departments.
- **Many employers recommended that pre-screening be permitted.** When asked for their opinion about changing the Web Basic Pilot procedures to allow the verification of job applicants, 64 percent of the 1,024 employers responding to the employer survey supported this change, 22 percent opposed the change, and 14 percent had no opinion. Two case study employers suggested that the Web Basic

³³ These proportions cannot be determined because closure codes were not input to indicate the exit status of a substantial number of employees.

³⁴ Although the evaluation is not complete and a comprehensive set of recommendations cannot be made at this time, the evaluation team has pulled together a list of interim recommendations, based, in part on employer recommendations, that are included as a separate document.

Pilot system should be used by all employers to pre-screen applicants before they are hired or start working.

- **Many employers would also like to use the system to verify employees hired prior to their start of the program.** When asked for their opinion about changing the Web Basic Pilot procedures to allow the verification of employees hired before the pilot was started, 50 percent of the 1,021 employers responding to this question on the employer survey supported the change, 25 percent opposed the change, and 25 percent had no opinion.
- **Employers would appreciate more compatibility between the Web Basic Pilot system and their existing Human Resources systems.** One employer recommended that the Web Basic Pilot allow for some employer personalization, such as allowing the employer to enter in the company's own employee and department numbers into the system. Another employer suggested that the system allow employers to upload employee information into the Web Basic Pilot from an existing company database.
- **Some employers made recommendations for how to streamline the administrative processes for using the online system.** One employer suggested that instead of requiring users to navigate through two screens to resolve cases which were not initially work-authorized, the system could automatically resolve those cases. Another employer recommended that the system alert the employer to which cases have received new resolutions from USCIS and require action (currently the system only alerts the employer to the number of cases with new resolutions from USCIS).
- **Employers did not favor limitations that would prevent them from entering new cases until older ones had been closed.** When asked for their opinion about changing the software to not allow employers to enter new cases until they had input referral dates for all tentative nonconfirmation cases from 2 weeks earlier, 67 percent of the 1,021 employers responding to this question on the employer survey said that they were opposed to such a modification in the software, 16 percent favored the change, and 17 percent had no opinion.
- **Employers also reported difficulty with the process for having their passwords reset; however, this process has been simplified since the interviews were conducted.** Two employers reported that the process of calling the telephone number to get their passwords reset is time consuming, particularly when the office is closed and the employer has to wait until the next day to get a new password. One employer recommended an after-hours phone line or a text email system that could provide users with their user names and passwords if the office is closed.³⁵

³⁵ The system now provides a way of doing this, presumably in response to an interim recommendation from the evaluation team.

Subsequent to the employer interviews, USCIS implemented an automated system for emailing passwords to authorized users.

Of course, decisions about the advisability of implementing employer recommendations must be viewed in light of other goals of the system. For example, it is not clear how easily prescreening could be implemented while safeguarding employees against discrimination.

F. SUMMARY

Features of the Web Basic Pilot have corrected a number of problems with the original Basic Pilot program reported in the evaluation of that program completed in 2002. For example, the transmission of cases over the web rather than installation of specialized software on dedicated computers solves some of the employer problems noted in the original Basic Pilot program and reduces employer set up time and costs. Edit checks now prevent some obvious data entry errors and, unless intentionally circumvented, employer staff members are prohibited from using the system prior to passing a Mastery Test, presumably resulting in more knowledgeable employers. Furthermore, system outcomes indicate that the trend towards increasing accuracy in the SSA and USCIS databases continues. These changes have led to increases in employer satisfaction with the Basic Pilot and appear also to have resulted in greater compliance with Web Basic Pilot procedures.

CHAPTER IV. DID THE WEB BASIC PILOT ACHIEVE ITS PRIMARY POLICY GOALS?

A. INTRODUCTION

The policy goals of the Web-based Basic Pilot (Web Basic Pilot), as articulated in the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), which originally authorized the Basic Pilot program, are to create a system that is effective in minimizing the employment of unauthorized workers while being nondiscriminatory, protective of privacy, and nonburdensome for employers. This chapter addresses each of these policy goals by providing background information and highlighting relevant findings from the evaluation. This chapter evaluates whether the Web Basic Pilot program achieved its policy goals. Where possible, the results of this evaluation are compared with findings from the original Basic Pilot.

B. DATA LIMITATIONS

Many of the employer findings in this chapter are based on data obtained from employers that responded to the web survey of employers using the Web Basic Pilot. Since the employer sample constitutes a population of all employers that had been using the Web Basic Pilot for over a year at the time that the sample was selected, sampling error is not an issue for the survey.³⁶ However, like all surveys, the employer survey is subject to nonsampling errors, such as nonresponse bias and measurement error.

Information from the five case study employers and their 64 employees who received tentative nonconfirmations cannot be considered to be representative of all employers or all tentative nonconfirmation employees.³⁷ These results are designed to provide more in-depth insights into the Web Basic Pilot than can be obtained from more structured methodologies but should not be generalized to a larger population using statistical methodologies.

Information obtained directly from the transaction database is based on the 1.3 million employee cases on that database. This is a very large number of observations and should, therefore, provide reasonably precise estimates of verification outcomes. A number of analyses are based on subgroups of the transaction database cases, such as the transactions that resulted in tentative nonconfirmations (approximately 104,000 transactions). Fortunately, even these subgroup samples are fairly large. However, the possibility of measurement error exists because the United States Citizenship and Immigration Services (USCIS) and Social Security Administration (SSA) data provided contained some errors due, for example, to employer input errors. Although the data were cleaned, it is not possible to rectify all errors.

³⁶ See Chapter II for more information on the exact sample specifications.

³⁷ See Chapter II for additional information on the methodology of the report.

C. EMPLOYMENT OF UNAUTHORIZED WORKERS

1. BACKGROUND

In discussing the employment of persons without work-authorization, it is important to be aware that not all employees without work authorization entered the country illegally. In addition to illegal entrants, there are many persons in this country who entered legally but have visas that have elapsed. There are also persons legally in the United States whose visas do not authorize them to work in this country.

a. WAYS NONCITIZENS WITHOUT WORK-AUTHORIZATION CAN OBTAIN EMPLOYMENT

As discussed in Chapter I, all newly hired employees should provide their employers with valid legal documents to prove their identity and to demonstrate that they are authorized to work in the United States; however, there are many noncitizens who are employed without work authorization. One of the primary goals of the Web Basic Pilot is to reduce the amount of such unauthorized employment. To understand the impact of the Web Basic Pilot program on the employment of unauthorized workers, it is useful to understand the methods commonly used to obtain employment among noncitizens who are not work-authorized. Specific methods include using counterfeit documents, using borrowed or stolen documents, and looking for alternative employment where employers do not check documents. This section describes and discusses the expected impact of the Web Basic Pilot on these methods of obtaining unauthorized employment.

Using counterfeit documents. Individuals without work authorization sometimes obtain work by presenting counterfeit or altered documents. These documents are reported to be readily available for purchase in immigrant communities.³⁸ Current employment verification procedures require the employer to certify on the I-9 form that the documents presented by the recent hire "...appear to be genuine."³⁹ In this situation, the likelihood of employers detecting counterfeit documents depends on the quality of the documents, the employers' familiarity with various immigration and other documents, and employers' expertise in detecting fraudulent documents. USCIS expects employers to exercise reasonable diligence in reviewing documents but does not expect them to be experts or to question reasonable-appearing documents.

The Web Basic Pilot program adds the extra step of checking whether the information on the documents presented by newly hired employees is consistent with information in the SSA database and, for noncitizens, USCIS records. Assuming that these checks work as intended, they will assist employers in detecting counterfeit documents containing

³⁸ The magnitude of this business is reflected in a December 2005 article in the *New York Sun* that reported that "A 19-month undercover investigation by Federal and local officials concluded this week with the seizure of more than 5,000 forged documents and the indictment of 21 individuals." (<http://www.nysun.com/article/24127/>)

³⁹ A Form I-9 form is included in Appendix A.

information about nonexistent persons. However, if the counterfeit documents are manufactured with reasonable quality and contain information about actual work-authorized persons, the Web Basic Pilot system will incorrectly confirm the individual as work-authorized.

Borrowing or stealing documents. A second way for unauthorized workers to obtain employment is to use valid documents belonging to another person. For example, individuals may borrow documents belonging to relatives or friends, use stolen documents, or purchase valid documents that may have been sold by the owner. To decrease the probability of this happening, employers are required to certify on the I-9 form that the documents "...relate to the employee named..." However, the Web Basic Pilot system is not designed to identify these documents as fraudulent since they are, in fact, genuine. Employers can only rely on the extent to which the document information, such as a photograph, fingerprint, and/or signature, resembles the employee and matches any other documents presented in the verification process, as well as information on the employment application.

Finding alternative employment. Another way that unauthorized workers can obtain employment is to take jobs where employment verification is not rigorous, either because the employer is ignorant of the law or because the employer is knowingly violating or neglecting the law. Undocumented immigrants who are self-employed⁴⁰ are also able to circumvent the employment verification system since they are not required to complete the I-9 form for themselves. Other possible sources of alternative employment are the underground economy and criminal activities, neither of which will require any type of document review. There is no reason to believe that the Web Basic Pilot or any employment verification system can prevent unauthorized employment when employers do not want to verify work authorization unless combined with strict monitoring and enforcement.

b. EXPECTED IMPACT OF THE WEB BASIC PILOT VERSUS THE FORM I-9 PAPER PROCESS IN REDUCING THE EMPLOYMENT OF NONCITIZENS WITHOUT WORK AUTHORIZATION

The Web Basic Pilot is designed to be more effective than the paper Form I-9 process in detecting counterfeit fraud in which the employee's documents contain information about nonexistent persons. However, the Web Basic Pilot is not expected to substantially improve employers' ability to detect fraud when borrowed or stolen documents are used to prove work authorization nor when employment is with employers who do not check work-authorization documents. It also cannot detect counterfeit documents that contain information about work-authorized persons. Thus, the Web Basic Pilot program should

⁴⁰ According to the Bureau of Labor Statistics approximately 7 percent of all workers were self-employed in 2005 (According to the Bureau of Labor Statistics approximately 7 percent of all workers were self-employed in 2005. (<http://www.bls.gov/cps/labor2005/chart3-1.pdf>, downloaded September 11, 2006)

decrease the ease with which noncitizens without work-authorization can obtain employment but will not eliminate the employment of such workers.

Even though the Web Basic Pilot cannot preclude all unauthorized employment, it should, theoretically, be able to reduce unauthorized employment in the following ways.

1. Employees without work authorization may decide not to apply to Web Basic Pilot employers, making obtaining work harder for these employees. The impact of this on unauthorized employment depends upon the length of the additional period of unemployment while the person seeks work, as well as the length of employment subsequent to finding work. If, for example, the average person without work authorization had a 10 percent decrease in the number of weeks worked per year as a result of the program, there would be a 10 percent decrease in unauthorized employment at any point in time. Furthermore, it is reasonable to assume that the increased difficulty of finding employment for those that are not authorized to work is a function of the percent of new employees verified using the Web Basic Pilot.
2. Employees without work authorization may receive a tentative nonconfirmation and quit upon being informed of the finding or tell the employer they will not contest and then have their employment terminated as required by the Web Basic Pilot. In this situation, the employee can work during the time that the employer is waiting to input employee information (which is supposed to happen within 3 work days of hire). In this situation, the impact of the tentative nonconfirmation is a function of both the time the employee worked and the time it took the employee to find a new job. For example, if an employee who would otherwise be continually employed repeatedly works for three work days and then searches for a new job for three work days, the employee is working for only 50 percent of the available work days. If this were the pattern for all employees, the result would presumably be a 50 percent reduction in unauthorized employment at any point in time. If some employees decide that working 50 percent of the time is not preferable to returning home (and/or potential employees decide not to come to the United States because of this situation), there would be an even greater decrease in unauthorized employment.
3. Employees without work authorization may receive a tentative nonconfirmation, contest it, be found to be not work-authorized and have their employment terminated, as required by the program. In this situation, the employee can work during the time the case is being contested (10 Federal work days if the employee takes the maximum time as well as the time the employer is waiting to input employee information for a total of 13 Federal work days). Assuming again 3 days without employment between jobs and the same pattern existing for all employees not authorized to work, employees would be unemployed for 19 percent of the time and unauthorized employment would be reduced by 19 percent at any point of time. The number of employees finding it preferable to return home or not immigrate to this country would be much smaller under this scenario than the preceding.

4. Employees without work authorization may receive a tentative nonconfirmation, tell their employer they plan to contest it, work during the allotted contesting period but never undertake the steps necessary to contest the tentative nonconfirmation. The impact of this scenario on unauthorized employment would be the same as in the preceding example.

The above scenarios do not take into account ways that employees without work authorization and those persons who help them find employment may adapt their behavior in response to the Web Basic Pilot – especially if an expanded program modeled after the current Web Basic Pilot were to be implemented. Most importantly, as employees learn more about how the Web Basic Pilot works, it is likely that employees will more frequently obtain counterfeit, borrowed, or stolen documents with information about persons who are work-authorized. Of particular relevance to this discussion is the case study finding that a few unauthorized workers at one employer reported that they incurred large costs associated with buying new social security cards/numbers in order to re-apply for a job with the same employer once they were terminated.

Since the cost of fraudulent or stolen documents for work-authorized persons is presumably higher than counterfeit documents with information about non-existent persons, the primary deterrent value of the program, in the long run, may well be to increase the cost of obtaining unauthorized employment which, in turn, would presumably reduce unauthorized employment; however, the amount of such reduction cannot be easily specified. The increased cost of such documents will depend on the extent to which the difficulty and expense of obtaining fraudulent, stolen, or borrowed documents is increased by advances in incorporating security features into the documentation employees are required to show during the verification process.

This section will discuss what evaluation information exists that sheds insight into how the program is operating to reduce unauthorized employment within the context of the preceding discussion.

2. FINDINGS

a. DISCOURAGING EMPLOYEES FROM APPLYING TO WEB BASIC PILOT EMPLOYERS

It is not clear to what extent the Web Basic Pilot currently discourages potential employees without work-authorization from applying to pilot employers. In the case study, one case study employer reported receiving fewer applications from people who were not work-authorized because their practice of verifying employment authorization had become well known among the local population. However, another employer indicated that its use of the Web Basic Pilot had not discouraged unauthorized workers from applying. Even though the local population was aware that the employer was verifying work-authorization, it was well-known that employees could work for several weeks or even months before being terminated because the employer allowed employees to work during the contesting process. None of the case study employers indicated that that program discouraged any authorized workers from applying.

b. PROGRAM USAGE

As discussed above, the effectiveness of the Web Basic Pilot program is dependent upon how quickly employees can find employment if they quit or are fired because of the program. Because of this, to effectively decrease unauthorized employment, it is necessary for the program to enroll employers and verify employees. As seen in Chapter III, usage of the Basic Pilot program has increased over time; however, less than 1 percent of the establishments in the United States are enrolled in the program.

c. PROGRAM FINDINGS OF UNAUTHORIZED TO WORK OR FINAL NONCONFIRMATION

Some employees without work authorization are found to be unauthorized to work or obtain final nonconfirmations, leading to their employment being terminated. As discussed in Chapter III, the Web Basic Pilot returned conclusive findings that only 299 employees were determined to be not work-authorized between June 2004 and March 2006.⁴¹ However, more than 100,000 other verifications resulted in tentative nonconfirmations that were not properly contested and became final nonconfirmations.⁴² In some cases, employees receiving tentative nonconfirmations were either not notified by their employers of the tentative nonconfirmation or the employees decided not to contest because of reasons other than believing they were not work-authorized. However, it is likely that most of these tentative nonconfirmation cases that became final nonconfirmations were, in fact, associated with employees who were not work-authorized. Indeed, the case studies indicated that this appears to be the case. However, the case study also found that a few work-authorized employees did not contest the tentative nonconfirmation findings because they were given insufficient or incorrect information by the employer—or in some cases the employer took care of the tentative nonconfirmation for the employee.

It also is likely that the estimated number of final nonconfirmations is somewhat biased upward, because some of the cases that appear to be final nonconfirmations may reflect technical errors attributable, for example, to employers' receiving written confirmation of work authorization from SSA but not resubmitting the case to SSA, as required by the Basic Pilot program. Since USCIS procedures require Federal input of case findings, this is not usually an issue with cases that are resolved by USCIS. However, the current database construction does not allow overriding a USCIS finding of final nonconfirmation, if the employee or employer requests further consideration of the case after the 10-day period expires and the employee is then found to be work-authorized, so these cases also appear to be final nonconfirmations on the transaction database. If USCIS is made aware of such cases, staff will notify the employer that a worker is work authorized even if the final outcome shows up as a final nonconfirmation in the system.

⁴¹ Approximately half of these employers transferred from the original Basic Pilot to the Web Basic Pilot.

⁴² These include tentative nonconfirmation cases that were not referred by employers to either SSA or Department of Homeland Security plus cases that the employer referred but the employee did not complete the process of contesting the tentative nonconfirmation.

d. POSSIBLE FUTURE USE OF THE WEB BASIC PILOT TO FURTHER REDUCE THE EMPLOYMENT OF NONCITIZENS WITHOUT WORK AUTHORIZATION

The Web Basic Pilot transaction data could be used to identify cases in which some types of fraud are highly likely. For example, counterfeiters may make multiple copies of a Social Security card using the same social security number (SSN) or a “green card” with a particular Alien number (A-number). To the extent it is possible to identify certain types of fraudulent cases, such as multiple uses of the same card numbers, with a high degree of certainty from transaction database information, it would be possible to incorporate this information into the Web Basic Pilot process for special handling. For example, these cases might be subject to an expedited secondary verification process, so that the worker, who is presumably not work authorized, would have less time to work during the case resolution process. The advisability of this is heightened by the fact that some employers are actually encouraging workers to say they will contest in order to take advantage of the 10-day period allowed for resolving tentative nonconfirmations so they can work during this period.

This section provides information on transaction database cases in which the same SSNs or A-numbers appear frequently as a first step in identifying ways that the program might be modified to increase the probability of correctly detecting identity fraud.

Exhibit IV-1 summarizes the frequency of multiple SSNs in the Web Basic Pilot transaction database. About 10 percent of the 1.3 million transactions (approximately 134,000 transactions) entered from June 2004 thru March 2006 involved multiple SSN cases. That is, approximately 66,000 SSNs appeared on the database at least twice. While almost all of the multiple SSNs were used only two or three times, which is less indicative of fraud patterns, 59 SSNs were used six or more times.

Exhibit IV-1: Frequency of SSN Duplicates in the Transaction Database, by Citizenship Status on the Form I-9

Number of times SSN was listed	All		Citizen		Noncitizen	
	Number	Percent	Number	Percent	Number	Percent
All duplicated SSNs	63,044	100	48,613	100	14,431	100
2	56,786	90.1	44,096	90.7	12,690	87.9
3	5,251	8.3	3,818	7.9	1,433	9.9
4	792	1.3	552	1.1	240	1.7
5	156	0.2	106	0.2	50	0.3
6	42	0.1	29	0.1	13	0.1
7	8	0.0	7	0.0	1	0.0
8	6	0.0	3	0.0	3	0.0
9	2	0.0	2	0.0	0	0.0
17	1	0.0	0	0.0	1	0.0

SOURCE: Web Basic Pilot transaction database

Exhibit IV-2 indicates the Web Basic Pilot system outcomes for the SSNs that were on the transaction database six or more times between June 2004 and March 2006. A total of 392 transactions were made with the 59 SSNs. Of those, 72 percent were found to be work-authorized instantly by SSA and additional 6 percent were verified instantly as work-

authorized by USCIS, while only 17 percent were found to be final nonconfirmations or unauthorized to work.

Exhibit IV-2: Web Basic Pilot System Outcomes for the 59 SSNs on the Transaction Database Six or More Times

Outcome	Number	Percent
All outcomes, total	392	100.0
Initially work-authorized by SSA	283	72.2
SSA Final nonconfirmation	26	6.6
First stage work-authorized by USCIS	25	6.4
Second stage work-authorized by USCIS	18	4.6
USCIS final nonconfirmation	33	8.4
Work-unauthorized by USCIS	7	1.8

Similarly, about 15 percent or 35,000 transactions (of 227,000) for noncitizen transactions had duplicate A-numbers. Ninety-five percent of them are on the transaction database two or three times. One A-number is used 117 times from June 2004 thru March 2006 (not shown in an exhibit). When the system outcomes were examined among those A-numbers that were on the transaction database 20 or more times, 76 percent were found to be final nonconfirmation or unauthorized to work, while only 24 percent were verified as work-authorized (see Exhibit IV-3).

Exhibit IV-3: Web Basic Pilot System Outcomes for the 23 A-numbers on the Transaction Database 20 or More Times

Outcome	Number	Percent
All outcomes, total	819	100.0
Initially work-authorized by SSA	193	23.6
SSA Final nonconfirmation	523	63.9
First stage work-authorized by USCIS	0	0.0
Second stage work-authorized by USCIS	1	0.1
USCIS final nonconfirmation	101	12.3
Work-unauthorized by USCIS	1	0.1

Most of the transactions with the SSNs or A-numbers that were used only two or three times are probably legitimate transactions. Some are probably employer errors in inputting cases that were not identified by the transaction database cleaning routines. Others may well belong to temporary workers or others with frequent job turnovers or who were hired by more than one pilot employer. The transactions with the SSNs or A-numbers that were used often are more likely to represent use of fraudulent documents. It should be possible to develop algorithms that would identify likely fraud cases, based on multiple SSNs or A-numbers. The effectiveness of this methodology would also increase with the size of the program, since the greater number of cases processed for workers without work-authorization could be expected to yield greater numbers of SSNs and A-numbers that are clearly used in patterns that cannot be easily explained other than through fraudulent use.

D. PROTECTING AGAINST VERIFICATION-RELATED DISCRIMINATION

1. BACKGROUND

One of the important Memorandum of Understanding (MOU) provisions is that employers should not discriminate “unlawfully against any individual in hiring, firing, or recruitment practices because of his or her national origin, or in the case of an individual protected by law...because of his or her citizenship status.” However, this provision does not impose new restrictions on pilot employers; it simply reiterates laws applicable to all employers, which both pilot and non-pilot employers may violate to some degree. This section focuses on the issue of whether the Web Basic Pilot has had an impact on the level of discrimination against work-authorized foreign-born employees. Related issues such as determining the level of employment discrimination in the United States and any discriminatory impact of the Form I-9 employment verification system are beyond the scope of this evaluation and will, therefore, not be discussed in this report.

Discrimination is defined in this document as adverse treatment of individuals based on group identity. In employment, discrimination refers to differential treatment based on characteristics, such as citizenship or ethnicity that are unrelated to productivity or performance. Discriminating in any way on the basis of spoken accent, facial or racial characteristics, or surname is also illegal.⁴³ Discrimination can occur because employers intentionally treat members of a group protected by law differently than others. However, it can also occur unintentionally if employers’ actions have a disparate impact on protected group members.

This report focuses on differences between work-authorized foreign-born employees and U.S.-born employees. The implicit assumption is that foreign-born employees are more likely than U.S.-born employees to be subject to discrimination based on one or more of the following characteristics that might lead employers to question whether the employees have work authorization: citizenship, ethnic identity, spoken accent, or surname. This does not mean that all employees within the foreign-born category have traits that would lead employers to characterize them as belonging to one or more of the protected groups. It also does not mean that all U.S.-born employees are not in one of the protected groups. However, it is likely that there is a strong correlation between being in one of the protected groups of interest and place of birth. The evaluation team uses this approach because it is much easier to measure whether the employee was U.S.-born than to determine whether the employee has any of the indicated characteristics.

Within the foreign-born category, differences between citizens and noncitizens are also examined. This distinction is made because previous evaluations have found that there are differences in the erroneous tentative nonconfirmation rates between these two groups that are likely to affect disparate impact discrimination.

⁴³ Brett, 1998.

Employment discrimination can occur at all stages of employment, including recruitment, hiring, placement, compensation, training, evaluation, disciplinary action, treatment on the job, and dismissal. Conversely, employers can take actions designed to prevent employment discrimination by aggressively recruiting groups historically underrepresented in their industries. Since the Web Basic Pilot procedures primarily affect recruitment, hiring, and the initial post-hiring period, this section of the report focuses on the effect of the Web Basic Pilot program during these initial stages of the process.

One goal of automated employment verification as envisioned by the framers of IIRIRA was to reduce discrimination introduced by the Form I-9 verification process; however, there has not been consensus among stakeholders about the potential impact of the IIRIRA pilot programs on discrimination. The General Accounting Office (GAO) and others had reported that the employment verification procedures specified by the Immigration Reform and Control Act of 1986 led to an increase in discrimination, in large part because employers were unsure of their ability to correctly identify individuals without work authorization.⁴⁴ In this situation, some employers found it easier not to recruit and hire noncitizens and/or individuals who appeared to be foreign-born. Giving employers a better employment verification tool should make them more comfortable with their ability to verify employees and, therefore, make them more likely to recruit and hire individuals who appear to be foreign-born.

On the other hand, advocates for immigrant rights have pointed out that the degree of harm engendered by the IIRIRA pilot programs could be considerable, even if employers completely follow the procedures designed to protect immigrant rights. They contend that work-authorized individuals born outside of the United States are more likely than U.S.-born workers to need to straighten out their SSA and/or USCIS records, which could result in missed time at work or other inconveniences. Further, some foreign-born employees may quit their jobs rather than contact USCIS, because they are afraid that contacting USCIS may create problems for them or a family member or because they believe it is easier to find another job elsewhere than to contest their cases. Even greater harm to work-authorized noncitizens is likely when employers fail to follow the pilot procedures.

Compared to the Basic Pilot program, the Web Basic Pilot could potentially result in less discrimination associated with tentative nonconfirmations issued to work-authorized employees because of improvements in the tutorial and information available over the web designed to ensure that employers understand their responsibilities. Furthermore, the edit checks included in the system should reduce data entry errors that would have otherwise led to tentative nonconfirmations, decreasing the rate of erroneous tentative nonconfirmations.

The next section first examines the question of whether the Web Basic Pilot makes employers more willing to recruit and hire foreign-born workers. Next, it examines

⁴⁴ General Accounting Office, 1990a.

whether the Web Basic Pilot verification process leads to discrimination against work-authorized employees after they are hired.

Information in this section is based, in part, on employers' self-reported behavior on the employer web survey. It also incorporates information from the case studies and from analyses of the transaction database. Comparison between the original Basic Pilot and Web-based Basic Pilot analyses will provide information on whether the changes implemented in the Web-based Basic Pilot program and other Federal actions have actually reduced the erroneous tentative nonconfirmation rate that is a major underlying cause of discrimination associated with the original Basic Pilot program.

Since the Web-based Basic Pilot procedures changed after October 2005, the impact of the change on the erroneous tentative nonconfirmation is examined. The major difference implemented at that time is that all noncitizen cases must be referred to USCIS for verification of work authorization status if the information provided by the employer matches the SSA database information. Prior to October 2005, the work-authorization status of many noncitizens who had permanent work authorization was verified by the SSA.

2. DID THE WEB BASIC PILOT MAKE EMPLOYERS MORE WILLING TO HIRE FOREIGN-BORN WORKERS?

A solid understanding of the impact of the Web Basic Pilot on employer willingness to hire foreign-born individuals would require conducting a carefully controlled experiment. Such an approach has not been considered feasible in the IIRIRA pilot program evaluations for political and practical reasons. It is, therefore, necessary to rely upon employer self-reported behavior for information about this key question.

This evaluation reworded questions used in previous evaluations about employer willingness to hire foreign-born individuals with the hope of obtaining more complete information about this aspect of the evaluation.⁴⁵ The first question asked of respondents to the employer Web survey was, "Do you think that this establishment is more or less willing to hire immigrants now than it was prior to when it started using automated employment verification?" Unless the respondent checked "don't know," the next question was, "Why do you think that this establishment is [INSERT RESPONSE OPTION FROM C8] to hire immigrants now than it was prior to using automated employment verification?"

⁴⁵ The original Basic Pilot survey asked "Do you think that the pilot programs make participating employers more or less willing to hire immigrants?" The follow up question asking them to clarify their response was not asked of employers that said it had no effect. Rewording the question has the disadvantage of precluding the comparison of responses from the Web Basic Pilot and the original Basic Pilot; however, the evaluation team believed that the additional information from the reworded questions outweighed the loss of comparability, especially since there is no a priori reason to expect that Web Basic Pilot employers would be more or less willing to hire immigrants than original Basic Pilot employers.

Most Web Basic Pilot users reported that the Web Basic Pilot made them neither more or less willing to hire immigrants. Approximately 62 percent of employers reported that the Web Basic Pilot neither increases nor decreases their willingness to hire immigrants. Many employers who reported this opinion said that all qualified applicants are given an equal chance for employment. Others indicated that the use of the Web Basic Pilot is a change in process, not a change in hiring practices. Another 19 percent of employers said that the Web Basic Pilot makes the establishment more willing to hire immigrants. The main reasons cited for this opinion are that the Web Basic Pilot is a valuable tool for employment verification; it provides security and confidence in hiring authorized workers, it offers immediate verification that results in a more efficient process, and it decreases employer liability. Only 4 percent of the users reported decreased willingness. Furthermore, examination of the responses for those employers that reported they are “less willing” shows that most of them did not understand the question. They appeared to be saying that they are not willing to hire people that are not work-authorized.

Since the percentage of employers that are more willing to hire immigrant employees is larger than the percentage indicating that they were less willing, it is reasonable to conclude that the percentage of employers willing to hire immigrants has increased and, therefore, that the net effect of the change is an increase in employers’ willingness to hire. This is consistent with the GAO premise that a better employment verification system is likely to make employers more comfortable in hiring immigrants.

3. WHAT IMPACT DID ERRONEOUS TENTATIVE NONCONFIRMATION FINDINGS HAVE ON DISCRIMINATION?

The impact of receiving an erroneous tentative nonconfirmation on discrimination can be viewed as the product of two factors – the degree to which specified groups differ in their tentative nonconfirmation rates and the size of the negative impact of receiving erroneous tentative nonconfirmations on those receiving them. If either of these factors is non-existent, then discrimination can be said not to occur. In other words, if foreign-born individuals were no more likely than U.S.-born individuals to receive tentative nonconfirmations, the tentative nonconfirmation process would not result in inadvertent discrimination against foreign-born persons. Similarly, if there were no negative impacts of receiving erroneous tentative nonconfirmations, there would be no inadvertent discrimination. This section examines these two factors separately.

a. ARE WORK-AUTHORIZED FOREIGN-BORN INDIVIDUALS DISPROPORTIONATELY LIKELY TO RECEIVE TENTATIVE NONCONFIRMATIONS?

Ideally, the evaluation would compare the tentative nonconfirmation rates for work-authorized foreign-born and U.S.-born persons to answer the question of how much difference there is in the erroneous tentative nonconfirmation rates for these two groups. However, there is no easy way to determine with certainty which employees with final nonconfirmations are work-authorized. Furthermore, for those final nonconfirmation cases without a match between the information employers input about employees and the SSA database, there is no available information about where the person was born or citizenship status. This report, therefore, uses the tentative nonconfirmation rate among those who are

determined to be work authorized at some point in the verification process (“ever been authorized”) as a reasonable indicator of the discrepancies in the erroneous tentative nonconfirmation rates between the two groups.⁴⁶

As anticipated by immigrant rights advocates, foreign-born work-authorized employees are more likely to receive tentative nonconfirmations than are U.S.-born employees, thereby subjecting a greater percentage of foreign-born work-authorized employees to potential harm arising from the Web Basic Pilot process. Among employees verified, 0.7 percent of all ever-authorized employees were found to be work-authorized after a tentative nonconfirmation. However, as seen in Exhibit IV-4 these rates were quite different for U.S. born and foreign-born employees. For U.S.-born employees, this rate was 0.1 percent; for foreign-born employees, the rate was 3.0 percent.

Exhibit IV-4: Stage in the Web Basic Pilot Process at Which Authorization Occurred for Employees Found to be Work-authorized, by Citizenship and Birth Status

Category	U.S.-born (%)	Foreign-born (%)			Total (%)
		Total	Citizens	Noncitizens	
Total authorized without a tentative nonconfirmation	99.9	97.0	89.1	98.7	99.3
Total authorized automatically	99.9	92.2	88.9	92.7	98.3
Initial authorization by SSA	99.9	54.1	88.3	45.6	90.5
First stage authorization by USCIS	0.0	38.1	0.6	47.1	7.8
Second-stage authorization by USCIS	0.0	4.8	0.3	5.9	1.0
Total authorized after a tentative nonconfirmation	0.1	3.0	10.9	1.3	0.7
Authorized by SSA after a tentative nonconfirmation	0.1	2.1	10.8	0.2	0.5
Authorized by USCIS after a tentative nonconfirmation	0.0	0.9	0.0	1.2	0.2

SOURCE: Web Basic Pilot Transaction Database

At least some of the difference between U.S.-born and foreign-born ever-authorized employees receiving tentative nonconfirmations is that noncitizens are subject to having their information verified against both the SSA and USCIS databases. Therefore, noncitizens have two opportunities to receive tentative nonconfirmations – one based on their SSN and the other based on their A-number. This problem is compounded by the fact that the USCIS database is not as up-to-date as the SSA database. Furthermore, some employers may make more mistakes when entering some foreign-sounding names than in entering names with which they may be more familiar, causing a nonmatch during the verification process.

Foreign-born U.S. citizens are considerably more likely to receive erroneous tentative nonconfirmations than are work-authorized foreign-born persons who have not

⁴⁶ Foreign-born employees may have inaccurate SSA information because they have not informed SSA about changes in their citizenship status; however, the citizenship status of native -born U.S. citizens does not change over time, so this is not an issue for this population.

become U.S. citizens. Among foreign-born employees verified by the Web Basic Pilot, the percentage of ever-authorized employees found to be work-authorized after a tentative nonconfirmation was 1.3 percent for noncitizens compared to 10.9 percent for naturalized citizens.

Determining the work-authorization status of all persons claiming to be U.S. citizens is currently the responsibility of SSA. The Web Basic Pilot program returns a work-authorized finding for foreign-born persons claiming to be U.S. citizens if SSA records show that the person is a U.S. citizen or a noncitizen with permanent work-authorization status.⁴⁷ If the submitted SSN, name, and date of birth are consistent with SSA records, but SSA does not have information on citizenship and immigration status that permits finding the case work authorized, the Web Basic Pilot issues a finding of “Unable to confirm U.S. Citizenship.” Because SSA records frequently have citizenship and immigration status information that is not up to date, a relatively high percentage of naturalized citizens receive erroneous tentative nonconfirmations.

If USCIS had accurate electronic information on naturalized citizens and could retrieve that information based on the person’s SSN, the solution to the current problem would be an easy one: the Web Basic Pilot could forward cases that might relate to naturalized citizens to USCIS for verification when SSA information on citizenship and immigration status employees does not permit verifying the employee as work-authorized. However, USCIS does not consistently have accurate information about current citizenship status on its database, and in most cases where accurate information is available, it cannot be accessed by SSN.

The inaccurate information at SSA reflects the fact that few people bother to update their citizenship/immigration status unless they are updating other information with SSA, such as a name change. The inaccurate information at USCIS arises from the fact that the former INS did not believe that it was authorized to maintain electronic records on naturalized citizens until that issue was clarified through legislation in 1996. Therefore, generally USCIS does not have electronic information on persons naturalized before that time. Furthermore, USCIS reflects U.S. citizenship status for persons who derived U.S. citizen status as children when one or both parents naturalized only when an application was filed and approved for certificates of citizenship on their behalf, which occurs in a small minority of cases. Even when USCIS has information on the citizenship status of naturalized citizens, it does not necessarily have their SSNs because the SSN has not always been a required field on the application for naturalization and is still not a required field for data entry. When this number is lacking for naturalized citizens, their USCIS records can only be accessed by A-number; however, A-numbers are not requested from naturalized U.S. citizens on Form I-9, which is the basis for the information used in

⁴⁷ The erroneous tentative nonconfirmation rate would be even worse if a decision were to be made that persons claiming to be U.S. citizens with SSA records showing that they had permanent work-authorization status were not verified by SSA as work-authorized.

electronic verification. A policy decision was made when the Basic Pilot was first designed to treat all citizens equally and not to reveal to employers which citizens are naturalized and which are native-born.

Reducing the erroneous tentative nonconfirmation rate for naturalized citizens to an acceptable level will not be easy or fast. However, inaccurate citizenship data for foreign-born persons presents a significant problem that must be addressed for verification of employment status as well as for verification for other purposes that are becoming more prevalent, such as for receipt of public benefits and licensing. There are several steps that can be taken to address this problem that the evaluation team believes should be started expeditiously.

The October 2005 procedural change for processing noncitizens appears to have resulted in an increase in the percentage of ever-authorized noncitizens who have erroneously received a tentative nonconfirmation. As discussed in Chapter III, starting on October 21, 2005, a procedural change was implemented to how noncitizen cases were processed. Prior to that date, noncitizens who had SSA records indicating that they had permanent work-authorization were verified by SSA as work-authorized.⁴⁸ The changed procedure required *all* noncitizen cases to be forwarded to USCIS to determine work-authorization status. As seen in Exhibit IV-5, the percentage of ever-authorized noncitizens who received tentative nonconfirmations rose from 1.2 percent for the pre-October cases to 1.6 percent for cases initiated after October 20.

Exhibit IV-5: Percentage of Ever-authorized Persons Who Received a Tentative Nonconfirmation, by Birth, Citizenship Status, and When the Transaction was Initially Transmitted

Category	US-born (%)	Foreign-born (%)			Total (%)
		Total	Citizens	Noncitizens	
Through October 20, 2005	0.1	2.9	11.4	1.2	0.8
After October 20, 2005	0.1	3.3	10.0	1.6	0.7

SOURCE: Web Basic Pilot Transaction Database

b. WHAT IS THE IMPACT ON EMPLOYEES OF RECEIVING TENTATIVE NONCONFIRMATIONS?

As stated above, the extent of discrimination against foreign-born persons after hiring is a function of the impacts of receiving a tentative nonconfirmation on the employee. The smaller this impact is, the less the resulting discrimination.

There are two primary ways that receiving a tentative nonconfirmation can have a negative effect on an employee. First, there are burdens associated with any adverse actions the employer may take against employees receiving tentative nonconfirmations. Secondly,

⁴⁸ Since September 2002, this information has been routinely verified by USCIS. Prior to that, the information was frequently but not consistently verified.

there are burdens associated with contacting SSA and/or USCIS. These two avenues are discussed separately in this section.

i. Employer Behavior

Employers are prohibited from taking any adverse actions against employees who receive a tentative nonconfirmation during the time that the employee is given to resolve his/her case. Both the employer survey and the case studies examined the extent to which employers followed this Web Basic Pilot requirement.

The primary modifications of the original Basic Pilot that were likely to increase employer compliance with the requirements of the pilot programs was through enhancements to the training materials available to employers and the requirement that employers must pass a test on pilot procedures prior to using the system. When asked how many staff had completed the Web Basic Pilot online tutorial, 84 percent of employers indicated that all staff that currently used the system for verification had completed the tutorial. Only 1 percent of employers indicated that no current system users had completed the tutorial.

Employers do not always adhere to Web Basic Pilot procedures specified in the MOU, thereby increasing the possibility that work-authorized employees receiving tentative nonconfirmations will suffer adverse consequences. As described in Chapter III, the evaluation points to a number of ways in which employers fail to follow MOU provisions designed to protect work-authorized employees from harm. These infractions include using the Web Basic Pilot to verify job applicants or persons hired prior to the start of the Web Basic Pilot. They also include failing to notify employees of a tentative nonconfirmation finding and taking adverse actions, such as reduction in pay or training, during the time period in which the employee is entitled to contest the tentative nonconfirmation finding.

It is also highly likely that some employees were not aware of costs—financial or otherwise—incurred because of tentative nonconfirmation findings. This is particularly true when employers use the Web Basic Pilot to prescreen applicants for jobs. Employees are likely to be unaware of costs associated with tentative nonconfirmations if they are not offered jobs because of these findings. In particular, one case study employer that prescreened job applicants did not hire some applicants and did not inform them of a tentative nonconfirmation finding, thereby preventing these persons from contesting the findings or correcting their paperwork. Employees may also be unaware of certain types of adverse actions such as having withheld training or being assigned to work fewer hours during the time while they are contesting tentative nonconfirmations.

ii. Burdens on Employees of Resolving Tentative Nonconfirmations

Employees are the most knowledgeable respondents for determining the burdens of contacting the SSA or USCIS to resolve erroneous tentative nonconfirmations. Even though the employees interviewed for this study are not representative of all employees, their experiences are illustrative of the types of impacts employees have and provide some insight into the financial and nonfinancial costs of resolving tentative nonconfirmations.

Most interviewed employees who received tentative nonconfirmations reported no costs associated with resolving the finding; however, some employees did incur tangible costs, and other employees may have incurred costs that they were not aware of. Among the interviewed employees who had been notified of a tentative nonconfirmation finding, very few reported having any specific costs. Several interviewed employees at one employer were not allowed to start working until they resolved the problem, but these employees did not provide an estimate of the cost of lost work.

Most of the 28 employees that went to an SSA office reported that they did not have to spend much time at the local SSA offices either waiting or speaking with a representative. Three employees reported having to wait for approximately 2 hours, and two employees reported the process took them all day. Another employee took the whole day off and lost that day's wages because he was not sure how long the process would take.

E. SAFEGUARDING PRIVACY

1. BACKGROUND

One of the IIRIRA requirements for the Web Basic Pilot is that it provide a verification system that protects the privacy and confidentiality of employees. The Web Basic Pilot system was, accordingly, designed to protect the confidentiality and privacy of employee information against unauthorized use at both the Federal and employer levels. These protections are in addition to the multiple barriers SSA and USCIS employ to prevent unauthorized external access to their systems. This section summarizes the evaluation findings related to data privacy and confidentiality.

The most recent IIRIRA pilot evaluations did not find significant evidence of problems with safeguarding employee privacy. However, using a web interface constitutes a significant change in the way the Basic Pilot works that could, at least in theory, have an impact on employee privacy.

In addition to potential privacy problems due to system weaknesses, privacy problems may arise during the tentative nonconfirmation process, if employers do not tell employees about tentative nonconfirmations in private. Employers should respect employee privacy by telling those employees receiving tentative nonconfirmations about the finding and explaining procedures required to resolve the finding in private. This obvious safeguard was not reflected in either previous or current employer training materials and it was, therefore, posited that little change would be observed to this behavior.

2. FINDINGS

a. FEDERAL SAFEGUARDS AGAINST PRIVACY VIOLATIONS

The following safeguards are built into the Web Basic Pilot system to protect against possible security breaches:

Federal privacy responsibilities. Federal Government safeguards protect access to SSA and USCIS databases by limiting their use to authorized SSA and USCIS

personnel and contractors. In addition, the Federal Government processes queries only for authorized employers that have signed an MOU. These employers are identified through establishment access and user identification codes.

Passwords. Each person using the system is expected to have an individual user identification number and password. The passwords must be changed every 45 days. The employer is required to notify USCIS and remove old user identification numbers and passwords from the system when personnel leave employment or no longer perform verifications as part of their job responsibilities.

There is little increased risk of misuse of Web Basic Pilot information by Federal employees. Use of the Web Basic Pilot increases the risk of improper disclosure or use at the Federal level only to the extent that it slightly increases the number of Federal employees and contractors who have access to systems information. The security procedures that SSA and USCIS use to protect all of their databases continue to be in effect when their personnel and contractors use Web Basic Pilot data. These security procedures limit access and safeguard employee and employer information provided by Web Basic Pilot users.⁴⁹

One possible weakness of the system is that someone wishing access to the system may pose as an employer and get access to the system by signing an MOU. There are not now safeguards in place to prevent this. Furthermore, the additional automation of the registration process may well make such security breaches more likely.

b. EMPLOYER BEHAVIOR DESIGNED TO PROTECT EMPLOYEE PRIVACY

Employers did not consistently convey information about Web Basic Pilot tentative nonconfirmations in a private setting. Employers may violate employees' privacy by not being sensitive to the need to be discreet in discussing verification problems with their employees. Almost all employers (95 percent) reported that they always inform employees of tentative nonconfirmation findings in private, compared to 90 percent in the original Basic Pilot evaluation. However, the case study revealed that even though employers reported that employees were always notified in private, there were exceptions at each of the four case study employers where employees were regularly notified. One employer sometimes notified a group of employees who all received tentative nonconfirmation findings and were all participating in the same training session; one employer reported that they requested that the employees' supervisors also be present at "private" notification meetings; however, only a few employees reported that their supervisors were in fact present at the meeting. One employer sometimes told employees of a problem with their verification in a public location where other employees could hear. A few employees reported that the employer posted a list of names of those who were "not authorized to

⁴⁹ As made clear in recent cases in which Federal databases have been stolen, Federal safeguards are not always adequate to ensure privacy; however, given that the data in the databases used by the Web Basic Pilot are already available in other Federal databases, it is unlikely that the program significantly increases the likelihood of misuse of the system by Federal employees.

work.” Another employer sometimes told employees in a public place where other people were around, but where only the employee could hear.

F. AVOIDING UNDUE EMPLOYER BURDEN

1. BACKGROUND

One of the stated goals of the IIRIRA pilot programs is to avoid unnecessary burden on employers. In addition to examining employer cost and burden, it is useful to examine costs incurred by the Federal Government and employees during the verification process. If a larger scale version of the Web Basic Pilot were to be implemented, employers might be asked to absorb a larger share of the costs to offset some or all Federal and employee expenses. Further, it is necessary to consider all costs to determine whether the pilot is cost-effective.

The cost figures in this section must be viewed as estimates. The cost information provided by employers in the web survey is sometimes based on actual records and sometimes on their best estimates. The employee information presented in this section is based on employees in the case study. These cases are illustrative but not representative of all tentative nonconfirmation cases.⁵⁰

The Web-based Basic Pilot incorporates changes designed to make the system significantly easier for employers to use than was true for the original Basic Pilot. An important question is, therefore, whether the web-based version of the Basic Pilot reduced employer burdens and costs compared to the original Basic Pilot program.

2. FINDINGS

The majority of employers reported that they spent \$100 or less in initial set-up costs for the Web Basic Pilot and a similar amount annually for operating the system. Eighty-four percent of employers that used the Web Basic Pilot reported spending \$100 or less for start-up costs, and 75 percent reported spending \$100 or less annually for operating the system while only 4 percent of employers reported that they spent \$500 or more for start-up costs, and 11 percent reported spending \$500 or more annually for operating costs.

The most frequently mentioned specific start-up costs were for training (40 percent), telephone fees for Internet access (10 percent), and computer hardware (9 percent). The most frequently mentioned operating costs were related to training of replacement staff (20 percent), wages for verification staff (17 percent), and computer maintenance (15 percent). However, not all costs associated with a new system can be easily quantified. Employers may also incur indirect costs for start-up, such as reassignment of employees, additional

⁵⁰ See Chapter II for a discussion of this issue.

recruitment, and delayed production.⁵¹ Approximately 97 percent of the establishments reported that the indirect start-up costs were either not a burden or were only a slight burden, and a similar percentage of the employers reported that indirect costs associated with maintaining the system were either not a burden or were only a slight burden (97 percent).

Although the Web Basic Pilot was not burden free for employers that used it, most employers reported that the benefits of using the Web Basic Pilot outweighed its disadvantages. As stated previously, 88 percent of the employers who had participated in both the original Basic Pilot and Web Basic Pilot reported that the benefits of the Web Basic Pilot are stronger than its disadvantages. Another 12 percent believed that the benefits and disadvantages were of approximately equal value. For these employers, any increased employment verification burden is presumably more than offset by the benefits obtained from the program, and it is reasonable to conclude that these employers believed that any extra burden of the Web Basic Pilot was justified by its benefits.

G. SUMMARY

This chapter has presented the following conclusions:

- Although the Web Basic Pilot provides employers with a tool for identifying employees who have presented counterfeit or altered documents indicating that they are work-authorized, it generally does not detect identity fraud that occurs when borrowed or stolen documents are used or when counterfeit documents with information about work-authorized persons are used.
- The Web Basic Pilot appears to be effective in reducing the level of unauthorized employment at participating establishments. However, the failure of employers to consistently terminate the employment of workers who received final nonconfirmations would threaten the effectiveness of a larger scale electronic employment verification program.
- The Web Basic Pilot apparently decreased discrimination in recruiting and hiring foreign-born employees because of increased employer willingness to hire *work-authorized* foreign-born employees; this willingness resulted from employers' increased confidence in their ability to distinguish between employees with and without work authorization. However, the Web Basic Pilot increased discrimination against work-authorized foreign-born employees after employment, because foreign-born employees, especially foreign-born citizens, are more likely than U.S.-born employees to receive tentative nonconfirmation findings, with the attendant burdens that entails.

⁵¹ Delayed production occurs when employers have to slow production for some reason. For example, this could occur with the Web Basic Pilot if employers fired someone because of a final nonconfirmation, and production slowed while the employer looked for a replacement.

- SSA and USCIS took reasonable precautions to protect the security of the Web Basic Pilot Federal databases. However, some employers did not consistently inform employees of tentative nonconfirmation findings in private.
- It appears that most employers that used the Web Basic Pilot did not find it unduly burdensome. It also appears that Web Basic Pilot employers found the process less burdensome than was true for original Basic Pilot employers.

CHAPTER V. RECOMMENDATIONS FOR IMPROVING THE WEB BASIC PILOT PROGRAM

This chapter lists recommended changes to the Web Basic Pilot program based on the evaluation to date. Since the evaluation is not yet complete, it is possible that the additional data analyses planned for the final report will lead the evaluation team to revise some of the following recommendations, as well as add new recommendations. Because of the ongoing nature of the evaluation, some of the recommendations listed here flow out of work that has not yet been fully incorporated into earlier chapters.

A. ADDRESS HIGH ERRONEOUS TENTATIVE NONCONFIRMATION RATE FOR NATURALIZED CITIZENS

The Social Security Administration (SSA) and the U.S. Citizenship and Immigration Service (USCIS) need to address the unacceptably high erroneous tentative nonconfirmation rate for foreign-born U.S. citizens. Reducing the unacceptably high tentative nonconfirmation rate for naturalized citizens will not be easy or fast, since neither SSA nor USCIS consistently has the information needed to verify their work-authorized status. Furthermore, not all information can be extracted from the USCIS database based on Social Security numbers (SSNs), the only identifier on the Form I-9 for persons claiming to be U.S. citizens. The recently initiated USCIS Digitization Project may, over time, assist in filling in some of the gaps in USCIS electronic records.

- USCIS and SSA should arrange for a one-time electronic transmittal of USCIS information for all persons having information in USCIS databases indicating that they are naturalized citizens. This information should not be restricted to individuals for whom USCIS has SSNs, since SSA is often able to uniquely identify persons on their database from other information (i.e., name, date of birth, and country of birth).
- USCIS adjudicators should ensure that applicants for U.S. citizenship include their SSN on the application form. USCIS should electronically send the SSN, name, date of birth, and new citizenship status to SSA at the time that the U.S. citizenship is acquired.
- USCIS should develop a way of capturing information (including SSN) about children under age 18 who derive U.S. citizenship at the time their parents are naturalized, so that their USCIS records regarding citizenship status are accurate, regardless of whether they apply for Certificates of Citizenship for them. This information should routinely be transmitted to SSA.
- USCIS should work with the U.S. Department of State's Passport Agency to develop a mechanism to electronically capture information on persons who are first documenting their derived U.S. citizenship status through requesting and being issued a U.S. passport. The information captured should be sufficient to positively match individuals to USCIS records and used to update them. This information

should also be communicated to SSA, so that its records can be updated. Again, to the extent possible, a one-time data merge should be performed and a mechanism established for routine transmittal of information for future cases.

- USCIS should update its electronic records to reflect U.S. citizenship status by manually inputting pre-1996 naturalization and citizenship information as well as SSNs available in retired paper A-files. This information should be shared with SSA.
- USCIS and SSA should consider giving employees who claim to be U.S. citizens on the Form I-9 and who receive a tentative nonconfirmation finding of “Unable to confirm U.S. Citizenship” an option to provide their former A-numbers to expedite verification of their work authorization status. The Notice of Tentative Nonconfirmation could be used for this purpose, so that employees would have three choices (to not contest, contest immediately, or ask USCIS to check its database based on an indicated A-number and then contest with SSA if USCIS cannot confirm work authorization status). If the last option is selected, the employer would either be told that the employee is work-authorized or be told to issue a referral letter for the employee to visit an SSA field office.⁵²
- SSA should conduct outreach activities to encourage naturalized citizens, especially those with derived citizenship, to update their SSA records accordingly.⁵³

B. EXPLORE WAYS OF USING DATABASE FOR MONITORING EMPLOYERS

In preparation for the likely passage of legislation requiring mandatory employment verification, USCIS should continue exploring options for ways to use the transaction database to identify employers that are not properly following Basic Pilot procedures. Examples of such indicators are as follows:

- A high rate of duplicate SSNs and A-numbers submitted by an employer, given its size, industry, and location, may indicate an employer knowingly hiring unauthorized workers;
- An unusually low number of queries, given employer location, industry, and size, may point to selective verification of employees;

⁵² This assumes that the recommendation discussed elsewhere on inputting information on the employee’s decision about contesting is also adopted.

⁵³ In addition to publicity campaigns, other outreach efforts may be warranted. For example, in some areas SSA attends naturalization ceremonies to encourage and assist new citizens in updating their citizenship status in SSA records at that time – a practice that could be broadened. In locations where SSA cannot attend naturalization ceremonies, SSA could provide a handout for USCIS to distribute instructing new citizens on how to correct their SSA record.

- An unusually high or low percentage of employees (either total or foreign born) receiving tentative nonconfirmations, given employer location, industry, and size, may point to an employer selectively verifying employees who appear to be foreign-born or failing to verify those believed not to be work authorized;
- Initiated dates prior to hire dates constitute an indicator of prescreening;
- Initiated dates well after hire dates may indicate that the employer is verifying persons other than new hires;
- An unusually large number of queries, given the size, industry, and location of the employer, may indicate that the employer is prescreening job applicants or persons other than new hires;
- An unusually small percentage of SSA/USCIS tentative nonconfirmations that are referred to SSA/USCIS, given the size, industry, and location of the employer or an unusually high percentage of referred cases becoming “No Shows” may indicate an employer not properly notifying employees of their right to contest tentative nonconfirmation findings;
- No queries being submitted by an employer above a specified threshold size may indicate that the employer is not using the system; although not necessarily a serious issue under a voluntary system, this would require followup in a mandatory system; and
- A significant number of cases more than 2 weeks old that do not have closure codes signifies that the employer is not properly closing cases.

C. REQUEST LEGISLATIVE CHANGES

Consideration should be given to requesting legislative changes to the following Basic Pilot procedures, requested by employers:

- Extension of the time to enter information for new employees to 5 days after hire to accommodate the needs of large employers and employers where verifications for several sites is centralized; and
- Allowing prescreening of job applicants within carefully prescribed parameters.

D. ESTABLISH NOTIFICATION GUIDELINES

USCIS should establish guidelines that provide specific time frames for notifying employees of tentative nonconfirmations and for terminating employees subsequent to receiving final nonconfirmation or unauthorized findings. Without specific timeframes for notifying employees of tentative nonconfirmation findings and terminating employees with final nonconfirmations, employers can allow the verification process to become protracted and unauthorized workers to work for extended periods, thereby reducing the effectiveness of the program.

E. AUTOMATE SSA'S PROCESS FOR HANDLING TENTATIVE NONCONFIRMATIONS

SSA should institute a process through which tentative nonconfirmations for SSA mismatches are controlled through an automated system similar to that which USCIS uses. Automating the SSA secondary verification process would tighten SSA procedures and make SSA more accountable for providing results for cases they resolve. It would also decrease SSA and employer burden and make the transaction database more accurate. Until this is done, monitoring of the transaction database should check whether employers are incorrectly resubmitting tentative nonconfirmation cases resolved by SSA as new cases.

F. MAKE ADDITIONAL CHANGES TO TUTORIAL

Additional changes should be made to the tutorial to further improve its effectiveness. The following changes are recommended:

- When questions are answered incorrectly, the tutorial should provide and explain the correct response to ensure that the user understands the material.
- Periodic retesting and, if need be, refresher training should be used to ensure that material has not been forgotten; this will also discourage the observed practice of assuming another user's name and password to avoid the tutorial and test.
- Training modules for staff other than system users and administrators should be developed to provide training and help prevent violations of procedures that are the responsibility of staff other than system users. For example, management and supervisors need to be aware that they may not take adverse actions against employees while they are resolving a tentative nonconfirmation. Additionally, Human Resources staff may be unaware that the policies they promulgate on training or pay while tentative nonconfirmations are being contested are in violation of the Memorandum of Understanding (MOU) and the statute. The training material developed should also include suggestions on how to monitor other staff members involved in the process.
- Further clarification of employer responsibilities needs to be incorporated in the tutorial, including the importance of the following:
 - Reviewing the screen to double-check the data they input into the Web Basic Pilot before sending the information to SSA and USCIS;
 - Notifying employees of tentative nonconfirmation findings and giving them a copy of the Notice of Employee of Tentative Nonconfirmation and, when appropriate, the appropriate notification letter; and
 - Informing employees of tentative nonconfirmation findings in private.

G. MODIFY THE SYSTEMS TO ENHANCE USER-FRIENDLINESS

The Web Basic Pilot System should be modified to further enhance its user-friendliness.

- Modify the training materials and tutorial to clarify issues that confused some of the case study employers.
 - The Web Basic Pilot tutorial should address the question of the definition of a “new hire” to help employers understand the critical concept of prescreening. This clarification is especially important for temporary help and employment agencies.
 - The tutorial should include a general overview of what the Web Basic Pilot program is designed to do and how it works.
- Modify language used in the system to make it less confusing.⁵⁴ For example, the following terms appear to confuse employers:
 - DHS Verification in Process – One case study employer thought that this result meant that the employee was in the process of obtaining work authorization.
 - Case in Continuance – This is sometimes misconstrued as meaning that the employee is in the process of obtaining work authorization.
 - Self-terminated – One pretest employee thought that “self-terminated” referred to the employer terminating the query and used this code rather than the Invalid Query code.

As part of this process, case closure codes should be revised to improve their clarity as well as to provide additional information for future evaluations and monitoring efforts. For example, there is no specific code for employees whose employment was terminated because they told the employer they would not contest the tentative nonconfirmation. There is also no code to indicate that employees quit working or stopped coming to work immediately after being notified that they received a tentative nonconfirmation. Most importantly, these language changes should also be subject to employer usability testing prior to finalization to ensure that employers understand what they mean and use them appropriately.

- Supplement the administrator and user account types with one or more additional account types to reflect the full range of employer practices. For example, one case study employer reported that because of the filing system the establishment uses to manage tentative nonconfirmation cases, it is possible for any Human Resources

⁵⁴ When employers misunderstand and misuse these terms, the results shown in the transaction database become inaccurate, which has a negative impact on the usefulness of the transaction database reports for management and monitoring purposes.

staff member to work on any case, regardless of who initiated it. To accomplish this, the company set every staff member's ID to "Administrator." However, this results in all staff members having access to other administrator functions, such as changing passwords that should be restricted to staff actually serving as system administrators. It, therefore, appears that, as a minimum, there should be a type of access account that is less restrictive than the current user account and more restrictive than the current administrator account.

- Further streamline the process of how employers resolve cases. For instance, the number of steps the employer must take to close work-authorized cases should be reduced. If an employee is work authorized at the initial query, the employer must click on the "Resolve Case" button on the verification result screen. The case resolution is entered on a separate screen and the "Resolve Case" button clicked again. It should be feasible to offer the employer a choice on the verification result screen of "resolve case as work-authorized" or "institute additional checking procedures" and automatically enter the closure code for the employer, if the first alternative is selected.
- Continue efforts to integrate employers' Human Resources (HR) systems and the Web Basic Pilot system to minimize duplicate data entry by employers. Greater integration of the Web Basic Pilot with HR systems would provide the means for employers to "personalize" the system to match directly back to their records and to provide customized system reports. For instance, the Basic Pilot could be modified to permit employee ID numbers to be included and returned with the case findings.
- Make use of usability testing whenever future training materials are developed to ensure that changes are clear to those who will be taking the training.

H. MODIFY SYSTEM TO CAPTURE ADDITIONAL INFORMATION

The Basic Pilot system should be modified to capture important additional information in the transaction database.

- The Web Basic Pilot should be modified to permit entry of information about the resolution of cases after issuance of a final nonconfirmation. Although there is currently no formal process to reopen cases that have become final nonconfirmations due to the passage of time, an informal process has developed where an USCIS employee calls the employer to tell them that the discrepancy has been resolved and that the employee is work authorized. However, there is currently no way to update the final case information in the database to indicate that the outcome has been changed, resulting in discrepancies that could create problems for work-authorized employees if subsequent monitoring or enforcement actions indicate that employment should have been terminated.
- Data quality in the Web Basic Pilot would be improved if procedures were developed for the routine automated cleaning of the transaction database to obtain more meaningful reports for management information purposes. For example, cases that employers close as employer data entry errors should not be categorized as

final nonconfirmation cases, which is what currently occurs, thereby overstating significantly the number of final nonconfirmation cases occurring.