

**FINDINGS OF THE CITIZEN ATTESTATION  
VERIFICATION PILOT (CAVP) PROGRAM  
EVALUATION**

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# EXECUTIVE SUMMARY

## INTRODUCTION

This report summarizes the findings of the evaluation of the Citizen Attestation Verification Pilot (CAVP), the second of three pilot programs 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 program.

The CAVP is distinct from the other two IIRIRA pilots because only newly hired noncitizen employees, rather than all newly hired employees, are electronically verified. The CAVP is also unique in that employees attesting to U.S. citizenship, which confers automatic work authorization, do not need to provide proof of citizenship in addition to providing an identity document. Furthermore, noncitizen employees are not electronically verified through the Social Security Administration (SSA), a partner in implementing the Basic Pilot and Machine-Readable Document Pilot (MRDP) programs.

## LEGISLATIVE HISTORY

The Immigration Reform and Control Act of 1986 (IRCA) made verification of employee identity and employment authorization a workplace standard by providing for 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 policies might be implemented, Congress required monitoring 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 increasing the security of the documents that could be used in the verification process.

Congress also provided for the testing of alternative verification systems that might be more effective than the system provided in IRCA. INS used this authority to test the feasibility of electronic verification of newly hired noncitizens in various locations and industries using touchtone telephone or computer and modem. These pilot programs used similar procedures and the same INS database as the INS Systematic Alien Verification for Entitlements (SAVE) Program that verifies the status of noncitizen applicants for certain Federal and State benefit and licensing programs.



In 1994, the Commission on Immigration Reform called for INS and SSA to institute a national registry combining both agencies' data for use in electronic employment verification. Although INS and SSA 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, as well as the implementation of recommendations to use counterfeit-resistant driver's licenses and machine-readable documents to verify the status of all new employees, formed the basis for the three IIRIRA employment pilot provisions. Testing and evaluating these options prior to considering a larger scale program was viewed as an essential step because of the implications of such a program for the Nation.

## **DESCRIPTION OF THE CAVP PILOT**

Under the CAVP, the I-9 form is completed for all newly hired employees. If employees attest to being U.S. citizens, they must show proof of their identity but do not need to document their citizenship claim. The employer uses the pilot system installed on a secure computer to verify employment authorization information for all newly hired employees attesting to being work-authorized noncitizens. If the INS electronic verification process does not verify the noncitizen's work-authorization status, INS conducts a manual records search to locate relevant information. If these checks are not sufficient to verify employment authorization, the employer is told to issue a tentative nonconfirmation notice to the employee and ask him or her to contact INS by telephone, by fax, or in person within 8 Federal work days to resolve the discrepancy. If the records are straightened out, the employee is verified; however, if the employee does not contest the tentative nonconfirmation or fails to go to INS, the system issues a final nonconfirmation finding, and to comply with the law, the employer must terminate his or her employment.

## **SELECTION OF CAVP STATES**

Only States that issued driver's licenses that contained a photograph and security features that made them resistant to counterfeiting, tampering, and fraudulent use were permitted to participate in the CAVP. INS worked with the American Association of Motor Vehicle Administrators to obtain information on which States met these qualifications.

To reduce confusion, INS excluded States participating in the Basic Pilot program from consideration for the CAVP. To maximize the usefulness of the pilot to employers, INS also sought to include States with sizeable foreign-born populations, particularly States with substantial numbers of undocumented residents. Using these criteria, INS selected Arizona, Maryland, Massachusetts, Michigan, and Virginia. Some employers in other States, potentially States not meeting the legislative criteria, also participated in the CAVP by virtue of INS's extension of its Basic Pilot policy. This policy permitted establishments in non-pilot States to participate in the pilot if they were part of a company with an establishment participating in the pilot.

## **CONTEXT OF THE CAVP**

INS selected States with relatively large numbers of foreign-born residents and undocumented immigrants to participate in the CAVP in order to facilitate the purposes of the study. Further, CAVP employers who volunteered to participate tended to be above average in size of workforce and were overrepresented in the field of manufacturing. Therefore, the participating CAVP States, the employers, and the employees are not statistically representative of the country overall, greatly limiting the ability to generalize the results of this evaluation to a larger group of States and employers.

## **RESEARCH METHODS FOR THE CAVP STUDY**

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 the issues, the evaluation was based on multiple approaches, including those below:

- Employer mail surveys sent to all establishments that had signed Memoranda of Understanding (MOUs)
- An employer on-site survey and observation of the CAVP establishments that used the system
- Analysis of INS transaction data that captured CAVP system activity
- Selection and analysis of I-9 forms
- Merged transaction database, Form I-9 records, and employer survey information
- System testing to determine ease of use of CAVP software and the possibility of unauthorized access to confidential databases
- Interviews with Federal program officials knowledgeable about and experienced with the pilot programs
- Secondary data sources that provide information needed for describing pilot characteristics and calculating costs and projections

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

## **CAVP EVALUATION QUESTIONS**

A full range of issues is covered in all three pilot studies in order to inform recommendations and decision making on the future of electronic verification of employment authorization in the workplace.

The main research questions for this evaluation are shown below.

- Was the CAVP program design and implementation consistent with stakeholder expectations?
  - Did the IIRIRA statutory guidelines specify a CAVP program consistent with the expectations of its proponents?
  - How well did INS design and implement the CAVP to meet IIRIRA procedural requirements?
  - Did employers generally comply with CAVP requirements?
- Did the CAVP achieve its primary policy goals?
  - Did the CAVP reduce unauthorized employment in participating establishments?
  - Did the CAVP reduce discrimination?
  - Did the CAVP protect employee privacy and confidentiality?
  - Did the CAVP prevent unnecessary burden and costs?

#### **WAS THE CAVP PROGRAM DESIGN AND IMPLEMENTATION CONSISTENT WITH STAKEHOLDER EXPECTATIONS?**

The CAVP program was one of three IIRIRA pilot programs testing the feasibility of electronic verification of work authorization. To be considered an adequate pilot test, it is necessary that the statutory language establishes and the Executive Branch implements a program consistent with the overall stakeholder expectations for electronic employment verification programs. Effective implementation also requires that employers generally comply with program requirements. The evaluation found that although many aspects of the CAVP implementation were consistent with stakeholder expectations, the implementation was deficient in a number of important respects. The most important deficiencies are summarized below.

- The CAVP program specified by IIRIRA was inherently discriminatory, because only noncitizens were subjected to the additional step of electronic verification, and therefore subject to the inconveniences of tentative nonconfirmation findings.
- The INS database used for the electronic employment system did not meet the IIRIRA reliability and accuracy provisions.
- Employers did not strictly adhere to CAVP requirements designed to protect employee rights.

***DID THE IIRIRA STATUTORY GUIDELINES SPECIFY A CAVP PROGRAM CONSISTENT WITH THE EXPECTATIONS OF ITS PROPONENTS?***

The Commission on Immigration Reform and other proponents of the electronic verification of work-authorization status had clearly articulated goals for electronic pilot programs. These goals were to create a system that applied to all workers equally and that would decrease unauthorized employment, while protecting against discrimination, privacy violations, and excessive employer burden.

This evaluation found that the IIRIRA statutory language provided the Executive Branch with adequate guidelines for protecting privacy. It also had reasonable requirements for ensuring that the pilot would not be unduly burdensome for employers.

The program specified in the legislation is potentially capable of reducing unauthorized employment by making it more difficult for noncitizens to use counterfeit documents with information about nonexistent persons. However, there are “loopholes” in the CAVP statutory provisions that reduce its effectiveness in reducing unauthorized employment compared to the other IIRIRA pilots. First, the CAVP reduced the requirements for proving the citizenship of employees claiming to be U.S. citizens. This created the very real possibility that the program would result in an increase in the fraudulent attestation of U.S. citizenship. Also, the statutory language was very vague in its description of what constituted an acceptably secure driver’s license for State participation in the program, thereby leaving open the possibility that INS would not develop adequate guidelines. Of special importance, the legislation did not specify that the secure documents had to provide proof of citizenship. Furthermore, even if the State documents were secure, the statutory language did not require employees to use these secure documents for identification, leaving open the possibility that noncitizens without work authorization would use more easily counterfeited documents.

The CAVP statutory language restricting screening to those employees attesting to being work-authorized noncitizens made it almost a certainty that the CAVP would discriminate against noncitizens, since noncitizens were the only employees subject to any burdens arising from the electronic verification process. To prevent discrimination, the CAVP would have to verify against totally accurate data, and employers would have to comply completely with all due process procedures. Neither of these are realistic expectations for any program.

***HOW WELL DID INS DESIGN AND IMPLEMENT THE CAVP TO MEET IIRIRA PROCEDURAL REQUIREMENTS?***

The evaluation examined whether INS did a satisfactory job of implementing the statutory language. Many aspects of the INS implementation were indeed satisfactory according to this criterion. INS provided employers with an electronic work-authorization program that met IIRIRA’s specifications for the timely determination of noncitizen employee work-authorization status. Furthermore, the majority of employers using the system reported positive experiences and did not find the program particularly burdensome.

However, INS did not fully comply with IIRIRA requirements. Most importantly, the CAVP database used for employment verification did not meet IIRIRA's accuracy requirements; as a result, approximately 17 percent of *work-authorized* employees received tentative nonconfirmations – an unacceptably high level of erroneous tentative nonconfirmations. INS could have reduced this error rate considerably by matching information on noncitizen employees against the SSA database prior to the INS database match – a verification approach anticipated by IIRIRA.

In implementing the CAVP, INS did not take sufficient precautions to ensure that the program was limited to States that met the program criteria specified in IIRIRA. Not only were States without stringent issuance procedures admitted to the program, but also establishments outside of the core CAVP States were permitted to participate in the CAVP if another establishment in the company was participating in a core State. As a result, almost half of the noncitizens screened by the CAVP were employed in States other than the five CAVP States.

Several technical system and support issues also hindered the successful operation of the CAVP. The software was less user-friendly than similar programs in use and did not include basic edit checks. Common data entry errors could have been avoided or immediately corrected if the software were enhanced to include edit checks. This would reduce the number of erroneous tentative nonconfirmations and, thereby, reduce the program's burden for the Federal Government, employers, and employees. Although the technical and customer support provided by INS was generally well received by employers, INS was not always responsive to employer needs, especially their needs for technical support.

INS also did not design the pilot to include procedures that could have reduced some of the negative effects of the CAVP. If INS had monitored employers to determine if they were adhering to CAVP procedures, the number of employer violations would presumably have been reduced. Similarly, if INS had directly informed employees about tentative nonconfirmations, more employees would have been aware of the tentative nonconfirmation finding and their due process rights.

Regardless of the positive ratings of the CAVP by users, the program apparently had limited appeal for most employers. Few of the eligible employers signed an MOU agreeing to participate in the program despite INS's extensive publicity and recruitment efforts. Participation among employers inquiring about the pilot was also low. Furthermore, fewer than half of the employers that signed the MOU had ever used the system at the time of the evaluation.

#### ***DID EMPLOYERS GENERALLY COMPLY WITH CAVP REQUIREMENTS?***

Employers are expected to follow both procedural and policy requirements for the CAVP as explained in the MOU and other materials sent to employers. Properly followed, these requirements can help ensure that the work-authorization status of employees is verified

efficiently and fairly. Although, in general, employers did follow these procedures, there were a substantial number of times when employers did not follow them. The most significant problems encountered in the evaluation are described below.

- Employers sometimes used the CAVP to screen employees prior to hire, potentially resulting in their unfairly excluding work-authorized employees with tentative nonconfirmations from employment.
- Employers sometimes failed to properly inform employees of tentative nonconfirmations, denying work-authorized employees the opportunity to contest their findings and thereby avoid unnecessary termination of their employment.

### **DID THE CAVP ACHIEVE ITS PRIMARY POLICY GOALS?**

The policy goals for each of the IIRIRA employment authorization verification pilots are to create a system that reduces the employment of unauthorized workers, is nondiscriminatory, is protective of entitled privacy, and is not burdensome to employers. The evaluation found that the CAVP did a good job of ensuring employee privacy, but failed to meet the program goal of being nondiscriminatory. The CAVP goals of reducing unauthorized work and not being burdensome were partially met. The net effect of the pilot program was to reduce unauthorized work, even though the pilot made fraudulent attestation to U.S. citizenship easier. However, it is likely that a larger scale CAVP program would be less effective than the pilot, because employers and employees would probably be more aware of the documentation “loopholes” in the CAVP in a larger program and, therefore, be more likely to take advantage of them. Although employers did not perceive the CAVP to be particularly burdensome, more effective program implementation could have further reduced the program burden on the Federal Government, employers, and employees.

### ***DID THE CAVP REDUCE UNAUTHORIZED EMPLOYMENT IN PARTICIPATING ESTABLISHMENTS?***

Noncitizens without work authorization obtain employment in the United States by using counterfeit documents, borrowing or stealing documents from those who are work-authorized, obtaining employment from employers where verification of status is not rigorous, or circumventing the verification process through self-employment. To estimate the impact of the CAVP on reducing the number of unauthorized workers among pilot employers and the number of fraudulent claims of citizenship, analyses were conducted using the CAVP transaction database, employer surveys, and INS record reviews. A model was also developed to estimate the number of undocumented CAVP workers.

The evaluation team estimated that the CAVP would have found approximately one-third of electronically verified newly hired noncitizen employees to lack work authorization if the work-authorization status of all employees had been resolved. In most of these cases, the system issued a final nonconfirmation finding because the employee did not contest the earlier tentative nonconfirmation. In this situation, to comply with the law the

employer must terminate the employment of these workers, thereby reducing the total number of non-work-authorized employees in their workforce.

As discussed earlier, the design of the CAVP makes it ineffective in detecting fraudulent claims to U.S. citizenship. The evaluation estimated that the CAVP failed to detect approximately 1,300 *non-work-authorized* employees who attested to U.S. citizenship. This number is nearly as large as the estimated number of *non-work-authorized* employees who were detected by the CAVP and had a final finding of unauthorized to work or final nonconfirmation (1,500).

### ***DID THE CAVP REDUCE DISCRIMINATION?***

In employment, discrimination refers to the differential treatment of a group based on characteristics (such as citizenship status) that are unrelated to productivity and performance. One goal of electronic verification is to reduce discrimination introduced by the Form I-9 process, particularly in recruiting, hiring, and the initial post-hiring period. According to the 1990 GAO report, discrimination resulted from the Form I-9 process because employers often avoided hiring noncitizens because they did not trust their ability to identify those who were not work-authorized.

The electronic verification program used in the CAVP was intended to give employers more confidence in their ability to identify employees without work authorization, so that they would be more willing to hire noncitizens. However, there is no evidence from the evaluation that the CAVP did make employers more willing to hire noncitizens as was intended.

Furthermore, the CAVP discriminates against work-authorized noncitizens because only noncitizens are verified through the electronic system. Therefore, only noncitizens can encounter problems resulting from tentative nonconfirmations. Model-based estimates indicate that erroneous classification of work-authorized noncitizens in the CAVP is not rare. An estimated 17 percent of work-authorized noncitizens screened by the CAVP erroneously received tentative nonconfirmations, and 12 percent of work-authorized noncitizens received final nonconfirmations. One major reason for this high error rate is that the INS database is not always up to date, resulting in work-authorized noncitizens being issued tentative nonconfirmations.

If employers fully complied with CAVP procedures, the primary negative result of the incorrect tentative nonconfirmation findings for noncitizen employees would be possible expenses (e.g., for transportation or lost work time) required to resolve the problem. However, the evaluation found that some employers do not comply with CAVP procedures designed to protect the rights of employees who receive tentative nonconfirmation findings. In some cases, employers do not inform employees of the finding. In other cases, employers inform employees about the finding, but do not adequately explain the procedures that employees are to follow if they believe the finding is incorrect. In still other cases, employers take such adverse actions as cutting employees' pay or restricting their training while they are straightening out their records with INS.

### ***DID THE CAVP PROTECT EMPLOYEE PRIVACY AND CONFIDENTIALITY?***

The CAVP system, like all Federal database systems, provides protections for privacy and confidentiality of employee information entered into the system. For that reason, the Federal Government limited access to the INS database to authorized personnel and contractors. The government also restricted queries of the system to authorized employers who signed the MOU agreeing to comply with security and other CAVP procedures. These measures resulted in the CAVP being reasonably successful in assuring the privacy of employee information. However, the lack of encryption of information entered into the employer's computers provided an opportunity for falsification of employer records about pilot transactions, although there is no evidence that this occurred. This is a pilot deficiency that needs to be corrected in any future program.

### ***DID THE CAVP PREVENT UNNECESSARY BURDEN AND COSTS?***

One of the objectives of the CAVP program is to prevent unnecessary burden on employers. Overall, the CAVP achieved that goal by placing little additional burden on employers, while providing some perceived benefit. Furthermore, 80 percent of employers reported that it was easier to verify employment using the CAVP than the Form I-9 process, and more than 80 percent reported that work authorizations obtained under the CAVP were more reliable.

Although employers did not perceive the CAVP to be burdensome, the program could be made more cost-effective. The likely cost savings of the CAVP in comparison to a program that verifies all newly hired employees against the SSA database and then, if necessary, the INS database is estimated to be approximately 4 percent for the Federal Government and 39 percent for employers. Given that a program that verifies all newly hired employees would be considerably more effective in detecting cases of fraudulent citizenship attestation, the evaluation team believes that the extra costs are warranted.

## **CONSIDERATIONS AND RECOMMENDATIONS FOR THE FUTURE**

The major conclusions of this report are summarized below.

- Compared with the paper Form I-9 process, the CAVP appears to make it more difficult for noncitizens without work authorization to obtain employment at participating employers. However, it is considerably less effective than programs that start with a comparison of all newly hired employees against the SSA database. Individuals who attest to being and/or have fraudulent documents indicating that they are U.S. citizens may be detected by such a program but will not be detected by the CAVP.
- The CAVP program clearly discriminates against noncitizens. Since only noncitizens receive tentative nonconfirmations, only noncitizen employees bear any program burdens that may result when employers take adverse actions against such employees, such as not hiring them, cutting their pay, or firing them.



Moreover, since the CAVP requires extra work when noncitizen employees are hired, it creates an incentive for employers to hire persons they believe are U.S. citizens, for whom the electronic verification process is unnecessary.

- As expected, the CAVP is less costly for employers, citizens, and the Federal Government than the Basic Pilot program would be if both pilots were implemented with the same group of employers. However, the cost savings of the CAVP are quite modest in comparison to its flaws.

The major recommendations are described below.

- INS needs to improve the timeliness of its data input for noncitizens who have recently entered the country and reduce the delay between modification of an individual's work-authorization status and when the change is entered into the database. This would significantly decrease the number of work-authorized individuals receiving tentative nonconfirmations.
- INS should investigate alternate ways of ensuring employer compliance with CAVP procedures and ways of decreasing the negative impact of non-compliance on employees, including better employer education, monitoring of employer compliance with CAVP procedures, and direct notification of employees.
- To decrease the possibility of electronic verification discriminating against noncitizens, future electronic verification programs should not determine which employees should be verified on the basis of their citizenship. Such a program could, however, use selective electronic verification based on other criteria, such as the security of documents employees present to substantiate citizenship status and identity.
- For any future employment verification programs limited to States meeting specified criteria, INS should carefully evaluate whether States meet the minimum requirements and should not allow establishments in other States to participate in the program.
- Because some of the major flaws in the CAVP result from specifications in IIRIRA that cannot be changed administratively, the current CAVP program should be discontinued as soon as feasible.

# CHAPTER I. BACKGROUND

## A. INTRODUCTION

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), enacted in September 1996, authorized three pilot programs to test different types of electronic employment authorization: the Basic Pilot, the Citizen Attestation Verification Pilot (CAVP), and the Machine-Readable Document Pilot (MRDP). This report presents the results of the evaluation of the CAVP, the second of the three small-scale IIRIRA pilot programs to be implemented. Unlike the other two IIRIRA pilots, the CAVP does not electronically check newly hired workers attesting to U.S. citizenship. (Instead, these employees are required to complete Form I-9 and then demonstrate their identity and work authorization using a photo identity document such as a U.S. passport, a State-issued driver's license, a nondriver identification card, or a school identification card. Employees who do not attest to U.S. citizenship complete the I-9 form, provide identity and work-authorization documentation, and are verified through an electronic process, using the Immigration and Naturalization Service (INS) database.<sup>1</sup>

The first of the three pilot programs to be implemented, the Basic Pilot, was evaluated in the Basic Pilot Summary Report (January 2002). The Basic Pilot required that participating employers electronically verify newly hired employees within 3 days of hire, first with the Social Security Administration (SSA), then, if necessary, with INS. The evaluation of the third pilot, the MRDP, is scheduled for completion by spring 2003. That pilot is identical to the Basic Pilot except that it relies on driver's licenses and nondriver identification cards containing a machine-readable Social Security number.

All three pilots test procedures for electronically verifying the work-authorization status of newly hired employees against the SSA and/or INS databases. Electronic verification builds on the existing Form I-9 paper verification system, whereby new employees must provide employers with documentation of their identity and their authorization to work in the United States. Employers are required to inspect these documents and sign the I-9 form, indicating that the documents appear to be genuine and to belong to the person presenting them. The CAVP, unlike the two other IIRIRA pilots, relaxes some of the requirements of this process for U.S. citizens.

The Executive Branch and the many nongovernmental groups interested in employment verification view evaluation as an essential part of the employment verification pilots. In mid-1997, INS selected two firms, the Institute for Survey Research at Temple University and Westat, to independently evaluate the three pilot programs. The evaluations were to gather input from a wide variety of sources, including mail surveys, on-site surveys, and national databases. Interviews with Federal officials and various stakeholders were conducted before the first and largest evaluation, for the Basic Pilot. Key information from those interviews has been used to guide the CAVP evaluation.

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<sup>1</sup> Since this evaluation was completed, INS has been reorganized into several bureaus within the Department of Homeland Security.

## **1. LEGISLATIVE OBJECTIVES**

IIRIRA mandates that INS – in conjunction with SSA – test a series of voluntary pilot programs for verifying the work authorization of newly hired employees. Section 405 of IIRIRA further requires that the U.S. Attorney General<sup>2</sup> provide the House and Senate Judiciary Committees with reports that:

- 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
- Include recommendations on whether the pilot program should be continued or modified

## **2. EVALUATION QUESTIONS**

The many groups interested or involved in the pilot programs agreed that evaluation was needed to inform recommendations and decision making on the future of electronic verification of employment authorization.

The main research questions for this evaluation are as follows:

- Does the CAVP operate as intended?
- Does the CAVP reduce the employment of unauthorized workers?
- Does the CAVP reduce discrimination?
- Does the CAVP protect employee civil liberties and privacy?
- Does the CAVP reduce employer burden?

## **3. REPORT ORGANIZATION**

The remainder of this chapter discusses the legislative background of employer sanctions and employment verification, which is important for understanding the issues addressed in the evaluation, and describes early pilot studies. Chapter II describes the CAVP and the context in which it was implemented. In Chapter III, the methodology for conducting the evaluation is presented. Chapters IV and V address the highest priority evaluation questions. Chapter IV focuses on the extent to which the pilot program is operating as intended. In Chapter V, policy implications and costs of the CAVP are described. The final chapter, Chapter VI, presents considerations for the future and recommendations from the evaluation. A glossary and several appendixes provide additional information about the CAVP and the evaluation.

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<sup>2</sup> Now the U.S. Secretary of Homeland Security.

## **B. LEGISLATIVE BACKGROUND**

### **1. PASSAGE OF EMPLOYER SANCTIONS**

Congress passed employer sanctions legislation in late 1986 as part of the Immigration Reform and Control Act (IRCA), making it unlawful for the first time for U.S. employers to hire or continue to employ workers who are not authorized to work in the United States. This law 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 because of the difficulty in verifying identity and work authorization, as well as concerns about privacy violations and discrimination against workers who appear or sound foreign. Many of the groups studying these issues attempted to develop ways of administering employer sanctions and verifying work authorization that would minimize fraud, protect privacy, and prevent discrimination. Some of those studying this issue believed that a more secure verification system could be based on documents such as State-issued driver's licenses and nondriver identification cards, if identity and citizenship information could be verified as part of the issuance process and if the cards themselves were counterfeit resistant.

### **2. EMPLOYMENT VERIFICATION AND CIVIL RIGHTS PROTECTIONS**

Accompanying the new IRCA employer sanctions provision, with its civil and criminal penalties for hiring undocumented workers, were two related provisions. The first prohibited discrimination on the basis of national origin or citizenship status and established a new agency, the Office of Special Counsel for Immigration-Related Unfair Employment Practices in the U.S. Department of Justice, to enforce this provision. The second provision required that INS develop and implement an employment verification system for all newly hired employees.

The universal employment verification system specified in IRCA is a paper-based system (implemented by INS as the 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.<sup>3</sup>

In addition, Congress authorized the Executive Branch to develop demonstration tests of alternative employment verification systems. Such systems had to be reliable, secure, and limited to employment verification. IRCA provided additional requirements that had to be met before such a system could be implemented, and none was to involve the

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<sup>3</sup> See Appendix E for lists of acceptable documents.

establishment or issuance of a national identity document. The legislation also required INS to establish a verification program, known as Systematic Alien Verification for Entitlements (SAVE), to verify the immigration status of noncitizens for certain benefit and entitlement programs. INS developed a special extract of its centralized database for this purpose.

### 3. EVALUATION OF THE EFFECT OF EMPLOYER SANCTIONS

Because of widespread concern over the unintended effects of the pilot programs, many prominent groups studied the implementation of employer sanctions. Among the areas of greatest concern were the employment verification system and the prevalence of unreliable and counterfeit documents used within it to document identity and work authorization.

Most prominent among such studies are the three IRCA-mandated reports by the General Accounting Office (GAO).<sup>4</sup> 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, 17 versions of the green card, most of which were easily counterfeited, were valid and in use.

In its final report to Congress in 1990, GAO found that employer sanctions had resulted in a widespread pattern of discrimination against work-authorized workers. GAO noted that employers’ uncertainty about the number of documents and the ease of counterfeiting documents no doubt contributed to the pattern of discrimination. Instead of repealing 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.<sup>5</sup> GAO did not specifically recommend universal issuance of a secure Social Security card or reliance on State-issued driver’s licenses and nondriver identification cards. Instead, GAO summarized the pros and cons of these options and reiterated concerns about cost and about how, when, and in what timeframe such documents should be issued, if issuing them was determined to be desirable.

The GAO findings triggered further inquiry on possible employment verification systems, documentary requirements, and the discriminatory and other negative effects of employer sanctions and employment verification. These studies were undertaken by a wide range of Federal 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 suggested that problems could largely be remedied by simplifying and clarifying the Form I-9 employment

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<sup>4</sup> General Accounting Office, *Immigration Reform: Status of Implementing Employer Sanctions After One Year* (GAO/GGD-88-14, November 5, 1987); *Immigration Reform: Status of Implementing Employer Sanctions After Second Year* (GAO/GGD-88-16, November 15, 1988); *Immigration Reform Employer Sanctions and the Question of Discrimination* (GAO/GGD-90-62, March 29, 1990).

<sup>5</sup> 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 should be reissued to all persons now holding it, as well as to all future applicants.

verification system. Use of a single secure identifier, such as a prevalidated driver's license or nondriver identification card, was viewed by some as an attractive option worth testing on a pilot or demonstration project basis.

In November 1988, 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) was technically feasible, it would have limited utility in deterring unauthorized employment. Although the system would identify never-issued numbers, cards issued for non-work purposes, and numbers issued to people 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, through which identity could be better established.

SSA noted in its report that 26 States were already validating birth certificate information for driver's license applicants. SSA also noted that it could increase the security of information for States by prevalidating Social Security numbers electronically, a process already included in the licensing requirements of 29 States. The report pointed out that driver's licenses 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 identifying data on the bearer, it would reduce SSA's workload and cost significantly by eliminating the need to verify Social Security numbers for employers every time a worker was hired.

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.<sup>6</sup> In response to this mandate, INS issued its *Report on the Security of State-Issued Documents* in November 1992.

The INS report found that the security of State driver's licensing processes was 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.<sup>7</sup> 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, 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, INS reported that Department of Motor Vehicles personnel had limited time to review the wide array of identity documents presented and limited ability to verify document authenticity with the issuing agency. As a result, counterfeit

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

<sup>7</sup> Immigration and Naturalization Service, 1992 (p. 39).

breeder documents presented during the issuance process were not necessarily identified, resulting in improper issuance of driver's licenses in some cases. The report also found that State funding was typically lacking for document fraud training and the establishment of real-time automated systems to readily allow positive identification of applicants. Additionally, INS noted that States lacked strong penalties for perpetrating fraud in the licensing process. While these findings were several years old when the CAVP was designed, the *Report on the Security of State-Issued Documents* presented a generally positive picture of the security of driver's licenses, if not the entire issuance process.

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 work authorization through a unified database of SSA and INS information. The Commission recommended that the President test and evaluate a series of pilot programs using different approaches, to provide information for assessing the advantages, disadvantages, and costs of these approaches; the availability and quality of data; and the effects on civil liberties. Suggested approaches included a more secure Social Security card, a counterfeit-resistant driver's license, and a telephone/electronic verification system.

Congress considered the Commission's recommendations and debated ways of gaining greater control over undocumented immigration. Although INS did not have a way to link its database with SSA information to create a single national registry as the Commission had recommended, the two agencies believed they could develop a voluntary pilot program to test the concept on a small scale, using separate checks of their databases. Although several bills proposed national implementation of an electronic verification system, the final legislation, IIRIRA, 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 especially important because of the limitations of Federal data for verification purposes, the potential for workplace discrimination and privacy violations, and logistical considerations related to larger scale implementation.

Exhibit I-1 summarizes the major relevant laws and the actions mandated by each.

**Exhibit I-1: Relevant Laws and Their Corresponding Actions**

<b>Year</b>	<b>Law</b>	<b>Action</b>
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 and evaluation of three voluntary pilot programs involving electronic verification

## C. IMPLEMENTATION OF ELECTRONIC VERIFICATION PILOTS

### 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. 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, ASVI had already been tested 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 described below and are summarized in Exhibit I-2.

**The Telephone Verification System (TVS) Pilot demonstrated the feasibility of verifying by telephone the work-authorization status of noncitizen employees.** INS began the TVS pilot study in 1992 to verify the work authorization of employees who declared themselves to be noncitizens on Form I-9. The pilot involved nine volunteer employers 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). The purpose of the TVS was to demonstrate that telephone verification using point-of-sale devices was a feasible approach. INS then expanded the DOS-based TVS program to verification by personal computer.

**The Telephone Verification Pilot, Phase II (TVP), tested the impact of noncitizen verification in a defined geographic area.** Following the apparent success of the TVS, INS initiated the TVP in 1995. The pilot was undertaken by 238 Los Angeles area employers to test the impact of pilot procedures in a defined and relatively concentrated geographic area. Participating employers conducted primary verification for newly hired noncitizen workers, using a personal computer and modem to access the INS database. If secondary verifications were necessary, employers sent copies of employees' immigration documents to INS for further verification. If INS could not determine an employee's status, the employee was encouraged to visit INS to resolve the discrepancy.

**The Employment Verification Pilot (EVP) tested the verification of work authorization for noncitizens in different environments.** The EVP, begun in 1996, expanded on the TVP pilot by including, initially, up to 1,000 employers of varying sizes and industrial classifications throughout the United States. The pilot was later expanded to include significantly more employers. This pilot's strength was that it tested the procedures in many environments. Additionally, INS automated the secondary verification process in the EVP to expedite this portion of the process.

**The Joint Employment Verification Pilot (JEVP) was the first joint INS-SSA pilot to verify all newly hired employees.** This two-step SSA-INS pilot was developed in response to the recommendation for a national registry system made by the Commission



on Immigration Reform. It departed from the earlier pilot programs by verifying the work-authorization status of all newly hired employees, using the SSA and INS databases separately. All newly hired employees were electronically verified through SSA. A further check was made through INS for noncitizens for whom SSA data could not determine work-authorization status. The two agencies initiated this joint pilot in the Chicago area in July 1997 with 38 employers.

**Exhibit I-2: Overview of Early Employment Verification Pilot Programs**

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

**2. CURRENT IIRIRA PILOTS**

Throughout the period when the early INS pilots were being tested there was ongoing discussion of larger scale employment verification systems, including verification schemes to further limit the type of documentation used to demonstrate identity and work authorization. As part of this discussion, civil rights groups expressed concern about the further testing of electronic employment verification systems, the move to single identity documents, and the impact of such a system on workplace discrimination and privacy. Other groups recommended the use of more secure documents, including a counterfeit-resistant driver’s license. Additional recommendations followed from the Federal civil rights community, as well as nongovernmental organizations that dealt with worker rights problems. To address these views and the need to test rather than implement a national system, IIRIRA authorized three pilots, the Basic Pilot, the CAVP, and the MRDP. The IIRIRA pilots are described below and are summarized in Exhibit I-3.

**The Basic Pilot verifies all newly hired employees through SSA and, if necessary, INS databases.** The Basic Pilot was launched in November 1997. 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.<sup>8</sup> The pilot design is similar to that of the earlier J EVP in that it requires participating employers to verify electronically the status of all newly hired employees, first with SSA and then, if necessary, with INS. Form I-9 documentation requirements are more stringent than those of the J EVP in that they require an identity document with a photograph.

The evaluation of the Basic Pilot found that most participating employers accepted it as an effective, reliable tool for employment verification.<sup>9</sup> Similarly, the evaluation determined that employees were largely satisfied with the program. However, the evaluation also uncovered 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 CAVP requires electronic verification for noncitizens only; U.S. citizens need only show identity documents.** The CAVP began in May 1999. IIRIRA mandates 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 are Arizona, Maryland, Massachusetts, Michigan, and Virginia. Under the CAVP, participating employers electronically verify the work authorization of newly hired employees who attest to being noncitizens on the I-9 form. Employers do not verify the work-authorization status of employees who attest to U.S. citizenship.

**The MRDP is identical to the Basic Pilot except that data for some employees are input through a machine-readable driver's license or State-issued nondriver identification card.** The MRDP was initiated in June 1999 in Iowa because, after a thorough review of State driver's license standards, INS determined that only Iowa's driver's licenses and nondriver identification cards met the statutory criteria. The MRDP procedures call for verification of all new employees, using either their machine-readable driver's license or nondriver identification card if it is presented, or through the Basic Pilot procedures if other documents are provided.

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<sup>8</sup> Nebraska was included in the Basic Pilot program after the evaluation had started and was, therefore, not included in the evaluation.

<sup>9</sup> These favorable findings may have resulted in part because participants were volunteers.

### Exhibit I-3: Overview of IIRIRA Pilot Programs

Year	Pilot	Location	Location Rationale	Method
1997	Basic Pilot	CA, FL, IL, NY, TX*	States with highest undocumented immigrant	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 ID cards	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 license	Electronic verification for citizens and noncitizens through machine-readable driver's license/nondriver ID card, if presented to employer; otherwise, Basic Pilot procedures are followed

\* Nebraska was included in the Basic Pilot program after the evaluation had started and was, therefore, not included in the evaluation.

## CHAPTER II. DESCRIPTION OF THE CAVP PILOT

### A. INTRODUCTION

The Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) calls for the CAVP pilot to be conducted in at least five States that have driver's licenses or nondriver identification cards that meet certain standards. Such documents must contain a photograph and have security features that make the card resistant to counterfeiting, tampering, and fraudulent use. IIRIRA also specifies that individuals attesting to U.S. citizenship on the I-9 form do not need to document this claim, as required not only by the other IIRIRA pilot programs but also by the paper Form I-9 process. Furthermore, employers verify electronically only those employees who attest to being work-authorized noncitizens.

Under the CAVP, participating employers electronically submit to INS the Form I-9 information of recently hired noncitizen employees. INS then determines whether these employees are work-authorized by electronically comparing the employer information with the INS database and, if necessary, by conducting a manual examination of the case. An important operational distinction between the CAVP and the other IIRIRA pilots is that the CAVP program matches Form I-9 information against the INS database only rather than both the Social Security Administration (SSA) and INS databases.

Section B describes the paper Form I-9 verification process, and Section C describes the Citizen Attestation Verification Pilot (CAVP) as designed by Congress and INS.<sup>1</sup> Section D describes how the States were selected for the CAVP. Section E discusses the context in which the CAVP was implemented, that is, how the CAVP States compare with the Nation on variables that are likely to affect the success of the program, as well as how CAVP employers compare with all employers in the Nation.

### B. PAPER FORM I-9 VERIFICATION PROCESS

The starting point for all of the pilot programs is the existing paper Form I-9 verification process used by all employers, including those *not* enrolled in any of the three pilots. When employees are newly 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 E). The employer examines the submitted documents to evaluate their validity and to determine whether they belong to the person presenting them.

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

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<sup>1</sup> See Chapter IV for a discussion of the extent to which the process described here has been properly implemented.

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. 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.

### **C. CAVP ELECTRONIC VERIFICATION PROCESS**

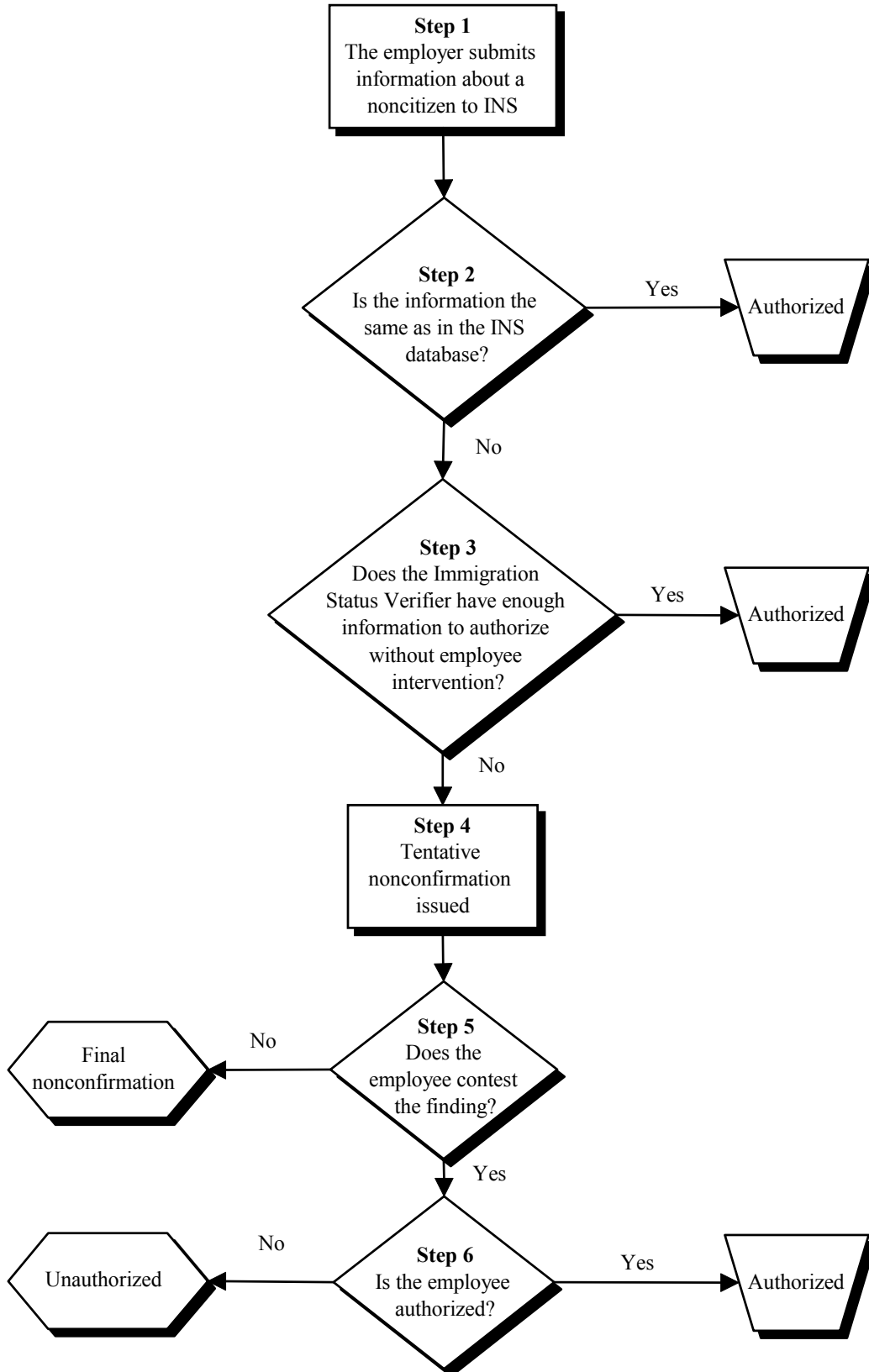
Once employers sign a Memorandum of Understanding (MOU) agreeing to participate in the CAVP pilot and to follow all pilot procedures, INS sends them the system software, manuals, and other materials needed to use the pilot program. Employers are expected to install the software, review the tutorial that comes with the CAVP program, and contact a telephone hotline if they have any problems. Once these steps are taken, employers may use the system to electronically verify work authorization for newly hired noncitizen employees.

The CAVP verification process is designed to enhance employers' confidence in their ability to verify their noncitizen employees, while safeguarding employee rights. The process begins with the completion of I-9 forms – by both the employee, who provides personal information and attests to U.S. citizenship or immigration status, and the employer, who records the type, number, and expiration dates of documents examined. Under the CAVP, U.S. citizens need only attest to citizenship and document their identity with one of several identification documents bearing a photograph. At this point, the verification procedure is complete for U.S. citizens. Noncitizens must show photo documentation demonstrating both identity and work authorization. At this point, employers initiate the CAVP electronic verification process for noncitizen employees.

The verification of work authorization for noncitizen employees involves entering Form I-9 data into the CAVP system. As shown in Exhibit II-1, the CAVP pilot requires the following major steps:

- Step 1.** Employers electronically submit information to INS about all new noncitizen employees.
- Step 2.** The INS system automatically checks the information submitted by employers against the Alien Status Verification Index (ASVI) database to determine whether the employees are work-authorized according to INS records.
  - a. If the ASVI database records match employer input and show that the noncitizen employees are authorized to work in the United States, INS instantaneously confirms their work authorization.
  - b. If not, the cases go to Step 3.

**Exhibit II-1: CAVP Pilot Process**



- Step 3.** If INS needs to check other databases, cases are electronically referred to an Immigration Status Verifier (ISV), who continues to check INS records.
- a. If the ISV is able to confirm work authorization, INS issues a finding of “work-authorized.”
  - b. If not, the cases go to Step 4.
- Step 4.** INS issues a tentative nonconfirmation if the ISV cannot confirm work authorization. After receiving a tentative nonconfirmation finding, employers are supposed to notify employees and ask whether they wish to contest the finding.
- Step 5.** Employees decide whether to contest the tentative nonconfirmation finding.
- a. If employees do not contest the finding, their cases are classified as final nonconfirmations and employers are supposed to terminate their employment.
  - b. If employees do contest the finding, employers are required to provide employees with a referral letter explaining how to contact INS. While the case is being resolved by INS, employers may not take adverse actions against employees because of the tentative nonconfirmation. Employees wishing to contest are supposed to contact INS by telephone, by fax, or in person within 8 Federal working days from the date of referral.
- Step 6.** If employees contesting tentative nonconfirmations contact INS and provide required information, INS determines their work-authorization status.
- a. If INS finds the employees to be work-authorized, a finding of “work-authorized” is returned to the employer within 10 Federal working days of the referral date.
  - b. If INS finds that the employees are not work-authorized, a finding of “unauthorized” is returned to the employer within 10 Federal working days of the referral date. The employer is then supposed to terminate the worker’s employment.

In summary, INS conducts an electronic and, if necessary, manual verification search of the INS databases and other INS records. When these records indicate that employees are work-authorized, INS confirms their work-authorization status. When these checks are not sufficient to verify that employees are work-authorized, INS issues tentative nonconfirmation findings to employers. Since it is possible for work-authorized employees to receive tentative nonconfirmation findings, CAVP procedures require employers to inform employees of tentative nonconfirmation findings and allow them to

contest the finding by contacting INS. When employees contest tentative nonconfirmations and provide INS with requested information, INS determines their final work-authorization status. When employees do not contest the finding or do not comply with the procedures for contesting, INS considers their cases to be final nonconfirmations and employers are supposed to terminate their employment.

#### **D. INCLUSION CRITERIA FOR CAVP STATES**

The CAVP criteria set by Congress in IIRIRA state that a State driver's license or nondriver identification card must meet certain standards (section 403 (b)(2)(A)):

The Attorney General may not provide for the operation of the citizen attestation pilot program in a State unless each driver's license or similar identification document described in section 274A (b)(1)(D)(i) issued by the State:

- (i) contains a photograph of the individual involved, and
- (ii) has been determined by the Attorney General to have security features, and to have been issued through application and issuance procedures, which make such document sufficiently resistant to counterfeiting, tampering, and fraudulent use that it is a reliable means of identification for purposes of this section.

To apply that mandate, INS reviewed its 1992 report on the security of State-issued documents. The report had found that the security of State driver's licensing processes was generally good and that the States were increasingly applying technology to prevent the counterfeiting or alteration of driver's licenses. However, the report also found that funding constraints limited the amount of time available for licensing personnel to review supporting documentation or receive training concerning fraudulent documentation.

To update this information, INS worked with the American Association of Motor Vehicle Administrators to determine the extent to which each State's driver's licenses and nondriver identification cards met the IIRIRA requirement that they contain a photograph and be resistant to counterfeiting, tampering, and fraudulent use.<sup>2</sup> Although most States appeared to meet these basic standards, a few either had dropped the requirement for a photograph or were considering taking such actions, making them unsuitable for participation in the CAVP at the time of selection.

One aspect of driver's license issuance that was apparently not considered in the formulation of the CAVP is that even the most secure driver's licenses do not include information on citizenship status. At the time the CAVP was implemented, California and Wyoming were the only States that verified citizenship status with INS.<sup>3</sup> This information was not recorded on the face of either card, however.

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<sup>2</sup> States were asked to report whether their documents and issuance processes met the statutory security standards; the adequacy of the documents and issuance processes was not further analyzed.

<sup>3</sup> Additional States are now exploring this capability with INS.



In selecting States for the CAVP, INS used two additional criteria. First, INS excluded States participating in the Basic Pilot program, in order to reduce confusion among pilot employers and to facilitate monitoring and evaluation. Second, since a major goal of the IIRIRA pilots is to reduce the employment of unauthorized workers, INS wanted to select States with substantial undocumented immigrant populations. Employers in these States were assumed to be more likely to volunteer for a program that would assist them in identifying employees without work authorization. INS therefore selected Arizona, Massachusetts, Virginia, Maryland, and Michigan to participate in the CAVP, because they had the largest undocumented immigrant populations among the non-Basic Pilot States that met the minimum document security standards.<sup>4</sup>

However, the CAVP did include some establishments from States that did not necessarily meet the minimum document security standards. These exceptions occurred because INS, in an effort to increase the number of participating employers, followed the policy initiated in the Basic Pilot that allowed establishments in non-pilot States to participate if they were part of a company participating in a pilot State.

## **E. CONTEXT OF THE CAVP**

The five CAVP States, the participating employers, and their employees are not representative of the country overall. Therefore, there are limits to generalizing the findings for the CAVP to all States or all employers. This section documents the similarities and differences between the pilot employers and States and the Nation as a whole. Appendix D provides more detailed comparisons of the participating CAVP States and employer characteristics.

### **1. STATE CHARACTERISTICS**

The size of the undocumented immigrant population was a criterion for inclusion in both the Basic Pilot and CAVP programs. The five CAVP States ranked high (though not as high as the Basic Pilot States) in the estimated numbers of undocumented immigrants. Not surprisingly, the percentage of the population who are undocumented is also higher in the CAVP States (1.8 percent) than in the non-pilot States (1.3 percent) and lower than in the Basic Pilot States (4.3 percent) (Exhibit II-2).

Since States with large concentrations of undocumented immigrants are also likely to have large concentrations of foreign-born residents, it is not surprising that the distribution of foreign-born residents closely parallels that of the undocumented immigrant population. Nineteen percent of residents in the Basic Pilot States are foreign-born, compared to 9 percent of residents in CAVP States and 5 percent of residents in the remaining States. Considered as a group, the CAVP States also had a lower concentration of Hispanics than

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<sup>4</sup> The original five Basic Pilot States were California, Florida, Illinois, New York, and Texas. Nebraska, which was not a Basic Pilot State at the start of the evaluation, was not included in the evaluation, even though it was later added as a Basic Pilot State. Three States with large numbers of undocumented immigrants (New Jersey, Washington, and Colorado) were not included because their driver's licenses and identification cards were deemed to be insufficiently secure.

**Exhibit II-2: The CAVP States Compared to the Basic Pilot States and States Participating in Neither Pilot on Representation of Undocumented, Foreign-Born and Hispanic Populations in the States: 2000**

States	Total Population	Number			Percentage of Total Population Who Are		
		Undocumented	Foreign-Born	Hispanic	Undocumented	Foreign-Born	Hispanic
<b>Basic Pilot States</b>							
California	33,871,648	2,209,000	8,864,255	10,966,556	6.5	26.2	32.4
Texas	20,851,820	1,041,000	2,899,642	6,669,666	5.0	13.9	32.0
New York	18,976,457	489,000	3,868,133	2,867,583	2.6	20.4	15.1
Florida	15,982,378	337,000	2,670,828	2,682,715	2.1	16.7	16.8
Illinois	12,419,293	432,000	1,529,058	1,530,262	3.5	12.3	12.3
<b>Total</b>	<b>102,101,596</b>	<b>4,508,000</b>	<b>19,831,916</b>	<b>24,716,782</b>	<b>4.4</b>	<b>19.4</b>	<b>24.2</b>
<b>CAVP States</b>							
Arizona	5,130,632	283,000	656,183	1,295,617	5.5	12.8	25.3
Massachusetts	6,349,097	87,000	772,983	428,729	1.4	12.2	6.8
Virginia	7,078,515	103,000	545,046	329,540	1.5	7.7	4.7
Maryland	5,296,486	56,000	518,315	227,916	1.1	9.8	4.3
Michigan	9,938,444	70,000	523,589	323,877	0.7	5.3	3.3
<b>Total</b>	<b>33,793,174</b>	<b>599,000</b>	<b>3,016,116</b>	<b>2,605,679</b>	<b>1.8</b>	<b>8.9</b>	<b>7.7</b>
<b>Other States</b>							
Washington	5,894,121	136,000	614,457	441,509	2.3	10.4	7.5
Colorado	4,301,261	144,000	369,903	735,601	3.3	8.6	17.1
New Jersey	8,414,350	221,000	1,476,327	1,117,191	2.6	17.5	13.3
Remaining States	130,726,014	1,392,000	4,355,255	9,451,802	1.1	3	7.2
<b>Total</b>	<b>149,335,746</b>	<b>1,893,000</b>	<b>6,815,942</b>	<b>11,746,103</b>	<b>1.3</b>	<b>4.6</b>	<b>7.9</b>
<b>United States Total</b>	<b>285,230,516</b>	<b>7,000,000</b>	<b>29,663,974</b>	<b>39,068,564</b>	<b>2.5</b>	<b>10.4</b>	<b>13.7</b>

SOURCES: U.S. Census Bureau, Census 2000 and INS, Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000, January 2003.

the Basic Pilot States (8 percent versus 24 percent). However, the CAVP States and the remaining States differed little in terms of the concentration of Hispanics.

The CAVP States are not particularly distinctive in terms of population size, number of businesses, or number of employees. The five CAVP States each contain just 12 percent of the total U.S. population, business establishments, and employees.

## 2. EMPLOYER CHARACTERISTICS

Establishments that were recruited and participated in the CAVP are clustered in and around large urban areas: Phoenix, Baltimore and Washington, DC, Detroit, and Boston. INS's advertising campaign focused on metropolitan area newspapers, trade publications, trade shows, and letters to employers. INS also held seminars in urban areas, which probably affected the establishments that chose to participate. Additionally, many employers learned about the pilot from other employers, further skewing participation toward urban establishments. INS used multiple mailings to reach as many potential employer-participants as possible in the five States. The agency sent materials to chambers of commerce and requested that INS district offices send information to employers who participated in field office seminars or who were involved in employer sanctions actions. In addition, INS requested that the U.S. Department of Labor's Employment Standards Administration offices help to circulate letters and pamphlets. Taken together, these efforts tended to focus on employers in urban and suburban areas.

**Employer size.** Since larger employers would seem to have more to gain by participating in the pilot program, it is not surprising that CAVP employers tend to be larger than nonparticipating employers. Sixty-nine percent of CAVP establishments had 100 or more employees, compared with 6 percent of establishments nationwide. Conversely, few pilot employers (1 percent) had fewer than five employees, compared with 50 percent of establishments nationwide.<sup>5</sup> These smaller employers have considerably fewer verification needs and are less likely to have the necessary computer equipment and staff to run the pilot. To the extent that these factors affect the usefulness of the CAVP, the pilot would be less cost-effective for small employers (see Exhibit D-12 in Appendix D).

**Industry.** As shown in Exhibit II-3, the five CAVP States are generally comparable to the United States in their distribution of establishments across broad industry classifications. However, compared to all establishments in the CAVP States and the Nation, participating CAVP establishments are overrepresented in manufacturing and underrepresented in retail and finance.

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<sup>5</sup> U.S. Census Bureau. *Statistics of U.S. Businesses, 1999*.

**Exhibit II-3: Percentage Distribution of Selected Industry Classifications in the United States, the Five CAVP States, and Participating Pilot Establishments**

<b>Industry Classification</b>	<b>Total U.S.</b>	<b>Total CAVP States</b>	<b>Total CAVP Establishments</b>
Agriculture, forestry, and fisheries	0.4	0.3	0.6
Mineral industries	0.3	0.1	0.0
Construction industries	10.0	10.9	8.3
Manufacturing	5.1	4.9	29.8
Transportation, communications, and utilities	2.9	2.5	1.2
Wholesale trade	6.4	5.4	3.6
Retail trade	15.9	15.8	3.6
Finance, insurance, and real estate	10.2	7.8	0.6
Service industries*	48.8	50.6	52.4

\* This category includes information, professional, management, administrative, education, health care, arts, accommodation, other services, auxiliaries, and unclassified codes of the North American Industry Classification System.

SOURCE: U.S. Census Bureau, 1999 Tabulations by Establishment Size.



## **CHAPTER III. RESEARCH METHODS**

### **A. INTRODUCTION**

The evaluation of the Citizen Attestation Verification Pilot (CAVP) is based on multiple approaches, including the following:

- Employer mail surveys sent to all establishments that had signed Memorandums of Understanding (MOUs)
- An on-site employer survey and observation of the CAVP establishments that used the system
- Analysis of INS transaction data that capture CAVP system activity
- Selection and analysis of a sample of I-9 forms
- Merged transaction database, Form I-9 files, and employer survey information
- System testing to determine the ease of use of CAVP software and the possibility of unauthorized access to confidential databases
- Interviews with Federal program officials knowledgeable about and experienced with the pilot programs
- Secondary data sources that provide information for describing pilot characteristics and calculating costs and projections

All approaches used in this evaluation followed standard research procedures to ensure the control of data quality. These quality control procedures included project-specific training of data collection and processing staff, monitoring of staff performance, data cleaning using consistency and range checks, and removal of duplicate records when necessary. Data were also weighted for nonresponse.

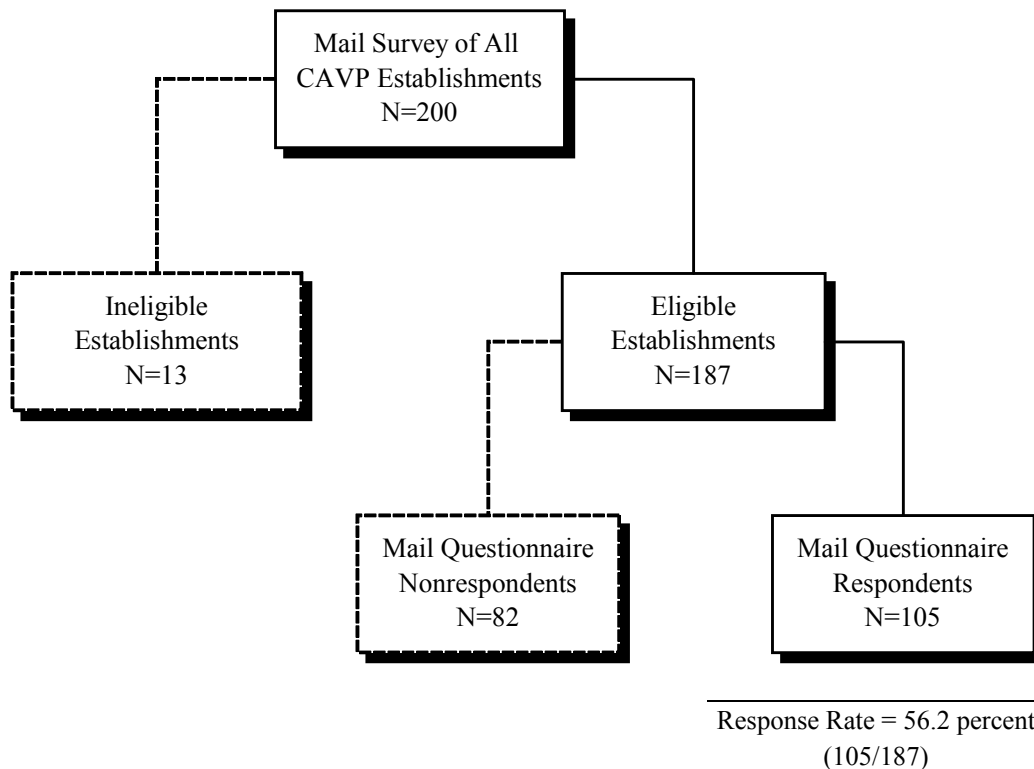
#### **1. EMPLOYER MAIL SURVEY**

The mail survey was a self-administered survey containing questions about the employer's reasons for participating in the CAVP, implementation of the program, setup and maintenance costs, employment verification procedures, views about the CAVP, and establishment characteristics. System non-users were also asked questions about their reasons for not using the pilot program.

An original universe of 200 establishments signed an MOU agreeing to participate in the CAVP. However, 13 establishments were no longer in business at the time of data collection. In March 2001, the survey was mailed to the 187 remaining establishments.

Up to four mailings, telephone reminders, and an additional final mailing by express mail were conducted as needed to maximize the response rate. This approach yielded an overall response rate of 56 percent, as described in Exhibit III-1.

**Exhibit III-1: Overview of Eligibility and Completion Statistics for the CAVP Employer Mail Survey**



**2. ON-SITE EMPLOYER SURVEY**

The on-site survey consisted of a semi-structured interview conducted by a trained interviewer. An establishment representative knowledgeable about the CAVP was asked questions about hiring procedures before and after implementation of the CAVP. The interviewer also asked questions about the employer’s general experiences with the CAVP. On-site pilot security measures were observed. This data collection effort took place between October 2001 and January 2002.

The on-site survey was conducted in 67 of 81 eligible CAVP establishments. To qualify for an on-site interview, employers had to meet three criteria:

- They had to be eligible for the mail survey, whether or not they responded to it.
- They had to have hired at least one person during the 6 months immediately before the mail survey was conducted.
- They had to have installed and used the CAVP system.

Determining which of the 187 eligible employers met the second and third criteria required different methods for mail survey respondents and nonrespondents.

**For the 105 employers that responded to the mail survey, the determination of eligibility for the on-site survey depended on specific responses to the mail survey.**

The evaluation team looked at whether the establishment had hired an employee during the 6 months before the mail survey and whether the establishment had installed and used the CAVP system. Sixty-six establishments met both criteria and were eligible for the on-site survey.

**For the 82 nonrespondents to the mail survey, the INS transaction database was reviewed to determine eligibility for the on-site survey.** The evaluation team assumed that if the CAVP system had been used in the past 6 months, the employer had hired at least one new employee during the target timeframe and had also used the system. Only 15 of the 82 nonresponding establishments were considered eligible for the on-site survey.

As depicted in Exhibit III-2, all 66 of the eligible mail survey respondents agreed to participate in the on-site survey. However, only 1 of the 15 eligible mail survey nonrespondents agreed to participate. Thus, of the total of 81 eligible establishments (66 respondents and 15 nonrespondents to the mail survey), 67 establishments participated in the on-site interviews, for an overall response rate of 83 percent (Exhibit III-2).

The on-site interview contained more open-ended questions than the mail survey. The questionnaire included questions about hiring procedures, changes in hiring procedures since CAVP implementation, experiences using the CAVP procedures and system, security issues, and employee characteristics.

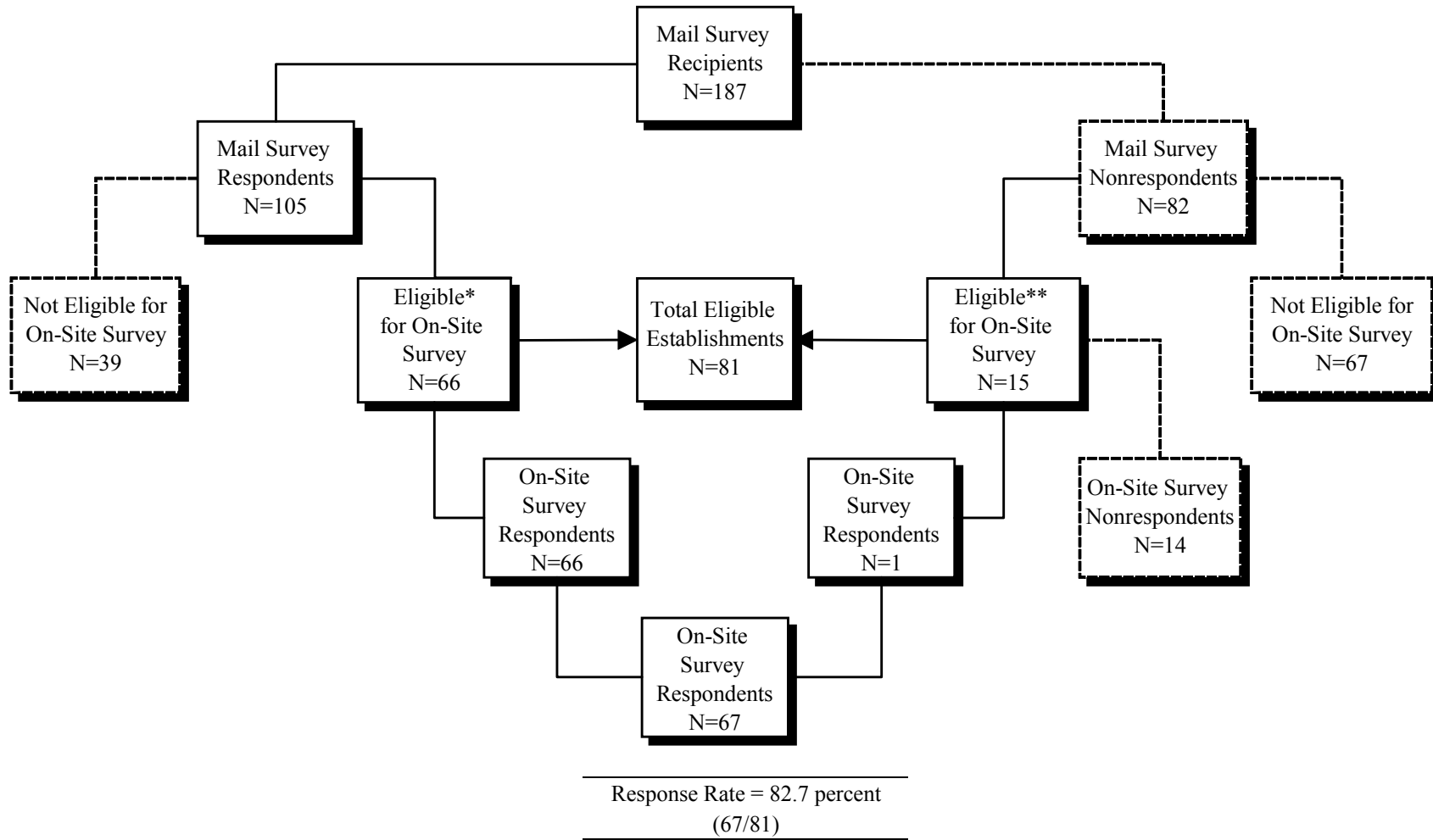
Before the CAVP site visits, all interviewers attended and successfully completed a 2-day training session during which they were rigorously prepared to be knowledgeable, effective, and consistent in carrying out data collection. The training included instruction in on-site interviewing, on-site observation, and procedures for sampling Form I-9 records.

Throughout the evaluation period, the site coordinator supervised and monitored all on-site activities. The coordinator made initial telephone contact with employers and re-asked the mail survey questions that determined eligibility for the on-site survey, as a means of validating this information. The coordinator was available by telephone during the data collection period and encouraged employers to call at any time with questions.

Quality control measures were instituted to ensure accuracy in reporting findings. Data from the mail and on-site surveys were cleaned to correct data entry errors and to resolve respondent error by examining out-of-range responses and skip patterns. In some cases, paper survey forms were re-examined to verify entries.



**Exhibit III-2: Overview of Eligibility and Completion Statistics for the CAVP On-Site Employer Survey**



\* The eligibility of each establishment was determined by examining the employer’s responses to specific mail survey items.

\*\* Eligibility was determined based on establishment use of the CAVP, as reflected in the transaction database.

### **3. CAVP TRANSACTION DATABASE ANALYSIS**

The CAVP transaction database maintained by INS captures information electronically submitted by employers as they query the CAVP system. The INS system responses are also captured in this database, along with entries from Immigration Status Verifiers (ISVs) as they review and resolve cases. The CAVP software contractor provided the evaluation team with a database of 19,716 records; however, some of these records were duplicates or were otherwise unusable.

Members of the evaluation team reviewed duplicate records. Duplicate records can occur for many reasons, such as transmission problems that result in multiple transmissions of the same transaction, employer failure to close cases as data entry errors, and employer entry of a case more than once. A record was considered a unique query based on a combination of the establishment and the employee Social Security number. When duplicate records were not identical, a specially developed computer program applied decision rules to determine which record was most accurate. For example, the first record chronologically to receive an authorization response was retained in preference to duplicate unresolved records. Moreover, if only one record reflected a third-stage record review, that record was retained. In some cases, a manual review of database records was necessary to determine which record was to be retained for analysis. The evaluation team also deleted records that were blank or closed as operator error. At the end of the cleaning process, 14,504 records remained for analysis.

The transaction database used in the analysis covers the period from June 1999 through October 2001. Because the database represents a census of all CAVP transactions of all participating employers, most of the analyses based on the transaction database are not subject to sampling error. Most importantly, citizenship and demographic information that should have been present on all records was missing for 42 percent of the cases provided by the INS contractor responsible for developing and maintaining the CAVP database. The reason for this problem could not be determined, but these omissions may have created some nonsampling error. Additional nonsampling errors are attributable to employer input errors that the evaluation team was unable to identify; these errors affect all transaction database variables.

### **4. FORM I-9 SELECTION AND REVIEW**

Following multi-stage sampling procedures, the on-site interviewers collected a representative sample of I-9 forms from all 67 pilot employers that participated in the on-site survey. When more than one establishment of the same employer was participating in the pilot, one establishment was selected for Form I-9 collection. To ensure that the sample was representative, interviewers were trained to handle numerous methods that employers might use to file their I-9 forms. For example, some locations filed forms alphabetically, which made it more difficult to locate forms in the specified 6-month period. Other employers filed forms in different locations for active and inactive employees.

A total of 5,790 I-9 forms were collected from the 67 establishments visited for on-site interviews. These forms were collected for employees hired by each establishment during the 6-month period before the date on which the mail survey was received. The number of I-9 forms collected from each establishment was based on the number of employees hired during the study period, as estimated by pilot employers. Interviewers selected all I-9 forms if an employer had hired 190 or fewer employees during the study period. Otherwise, a random sample was selected to yield a maximum of 150 I-9 forms for each employer.<sup>1</sup> Weighting was used to adjust Form I-9 information for nonresponse to the on-site survey and for the sampling used to obtain I-9 forms from large employers.<sup>2</sup>

Experienced coding and senior evaluation staff reviewed all I-9 forms received from employers. This review indicated that more than 500 of the 5,790 sampled forms had one or more irregularities, such as missing or illogical information for such key fields as citizenship status. Where possible, information was imputed for these variables by examining the remainder of the form and, when available, attached documents. For example, if citizenship was left blank and the employee presented a resident alien card for identification, the case was coded as a lawful permanent resident.

After the coding was reviewed, experienced data entry staff key-entered the data. To monitor the accuracy of data input, 100 percent of forms were rekeyed by a second operator without knowledge of what the first operator had entered. The resulting entries were compared and, if necessary, reconciled by a verifier.

After creating the initial Form I-9 database, the evaluation team further reviewed all 5,790 cases to obtain information about their likely work-authorization status. This process included several steps.

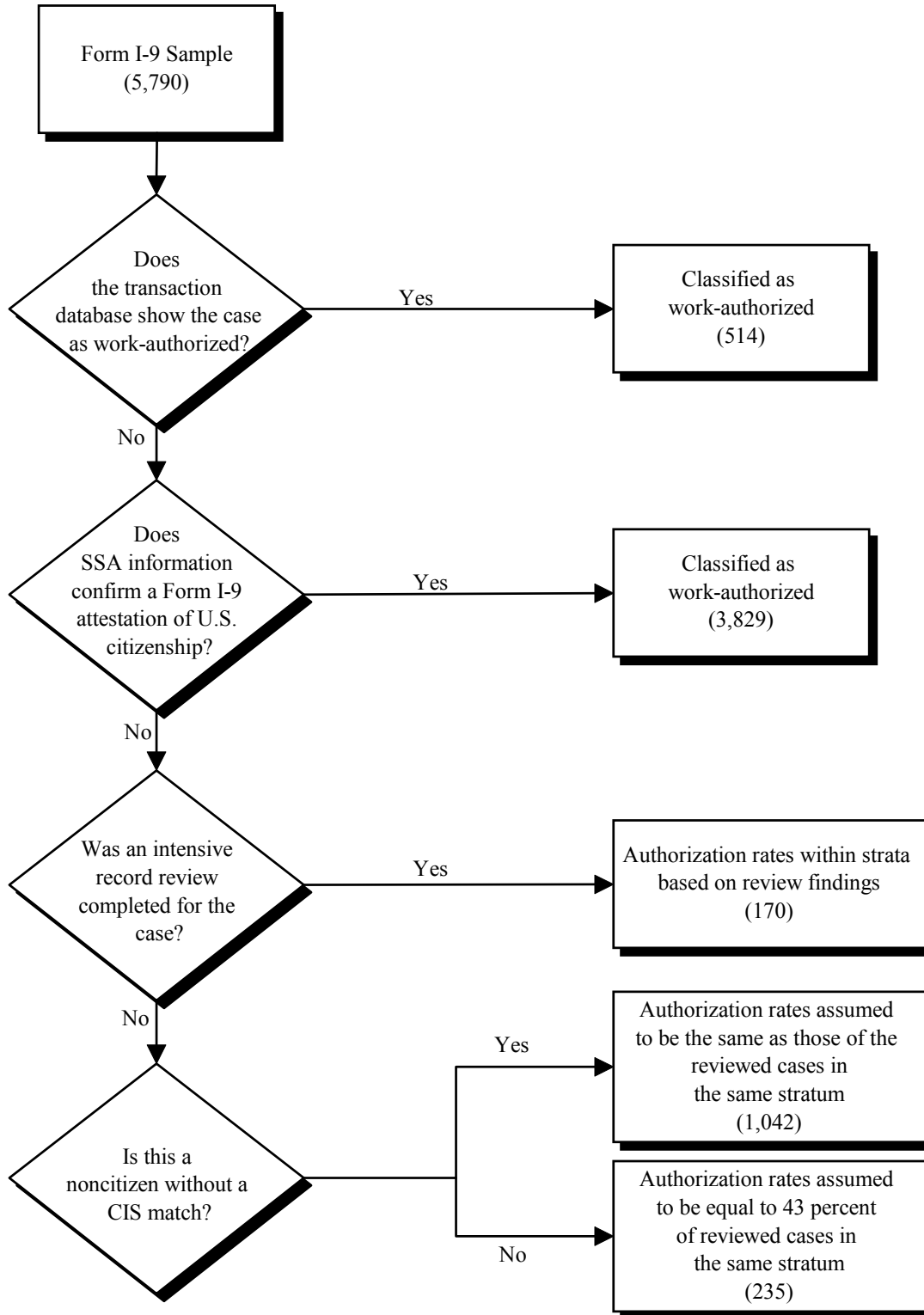
1. The Form I-9 database was matched with the transaction database using Social Security numbers, Alien Numbers, or I-94 numbers. If a case appeared on both databases, information was extracted from the transaction database and added to the Form I-9 database. A total of 611 cases were matched. During the CAVP verification process, INS found that 514 of these 611 cases were work-authorized (Exhibit III-3). These cases were therefore classified as work-authorized for this analysis.

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<sup>1</sup> In some cases, the employers' estimates of new employees differed significantly from the actual number of I-9 forms found on-site. In these cases, the selection rate used by the interviewers corresponded to the estimate provided by the employers before the interview. This approach may have resulted in under- or oversampling of I-9 forms in a few cases, which in some instances exceeded the 150-case maximum.

<sup>2</sup> A detailed account of these sampling procedures can be found in Appendix A.

**Exhibit III-3: Steps in Estimating Work-Authorization Rates for Form I-9 Sample Cases\***



\* See Appendix C for additional information.

2. At the evaluation team's request, the Social Security Administration (SSA) matched all 5,790 of the Form I-9 cases against its database, using Social Security numbers. The evaluation team was thus able to determine the likely initial finding if SSA had screened the cases using the same criteria and procedures used in the Basic Pilot and Machine-Readable Document Pilot (MRDP) programs. This review indicated that 3,829 citizens not electronically screened by the CAVP would have been found work-authorized by the Basic Pilot and the MRDP. The evaluation team assumed that these 3,829 cases were work-authorized in addition to the 514 noncitizens found to be work-authorized by the CAVP. Thus, the likely work-authorization status of 4,343 of the 5,790 Form I-9 cases could be determined without an intensive case review, leaving 1,447 cases without a likely work-authorization status.<sup>3</sup>
3. The third step in the record review was an automated match of the remaining 1,447 cases against the INS Central Index System (CIS), which is a source of the Alien Status Verification Index database. This match provided additional information needed in later steps of the record review, as well as the location of the INS hard-copy files.
4. The 1,447 cases for which work-authorization status could not be determined by the automated checks were divided into strata based on citizenship status and SSA findings.<sup>4</sup> Cases were selected for review within these strata. Because a major goal of this review was to obtain information on non-work-authorized persons, criteria for sample selection varied by stratum in an attempt to oversample from categories believed most likely to contain large percentages of such individuals.<sup>5</sup> A sample of 218 cases was selected.
5. Two members of the INS evaluation staff conducted the intensive record review for selected cases. In addition to using the findings from the INS and SSA automated matches, the reviewers inspected copies of the I-9 forms and any attached documents. They also examined INS hard-copy files for these employees and, if necessary, checked additional INS databases. On the basis of this review, they determined whether the selected employees appeared to be work-authorized at the time that their Form I-9 records were submitted to the CAVP system. The INS evaluators made a determination of work-authorization status in 170 of the 176 cases reviewed. These sample results were used to estimate the work-authorization status of the remaining cases.<sup>6</sup>

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<sup>3</sup> SSA did not provide the evaluation team with sufficient information about individual matched noncitizen cases to determine whether the cases were work-authorized. Therefore, the evaluation team could not rely totally on the SSA match to determine the likely work-authorization status of these cases.

<sup>4</sup> See Appendix C for additional information about the strata used.

<sup>5</sup> See Appendix C for additional information about sampling for this review.

<sup>6</sup> Additional information on this review is included in Appendix C.

## **5. COMPARISON OF FORM I-9, TRANSACTION DATABASE, AND EMPLOYER INTERVIEW INFORMATION**

CAVP procedures require employers to enter Form I-9 information for all newly hired noncitizen employees and only those employees. To determine whether the employers who participated in the on-site survey complied with these procedures, the evaluation team analyzed an integrated database containing information from the transaction database, the Form I-9 database, and the employer surveys.

This integrated database captured information during a period in which both the transaction database and the Form I-9 data were available. Employers who did not use the transaction database at all during the period for which I-9 forms were collected were excluded from the analysis. The data were not adjusted for any period that the employer may have temporarily suspended use of the CAVP. Fifty-two employers were included in this analysis.

The integrated database was used to calculate several employer compliance measures. The first measure was the percentage of noncitizen I-9 forms that had a matched transaction database entry. This measure was an indicator of whether the employer had used the CAVP for all newly hired employees.

The second compliance measure was the percentage of transaction database entries that had a corresponding I-9 form.<sup>7</sup> This measure indicated whether the employer had used the CAVP to screen anyone other than recently hired employees.

The third compliance measure calculated was the percentage of cases with a transaction query date before the Form I-9 hire date. This measure was an indicator of whether the employer was using the CAVP to screen job applicants. Since this measure was based on cases having both a transaction database entry and an I-9 form, it could be calculated only for cases that appeared on both the transaction database and the I-9 database.

Employer responses to the mail and on-site surveys were also included on the integrated file. This information was used in conjunction with the compliance measures to explore factors that might explain differences in compliance rates.

## **6. SYSTEM TESTING**

To test CAVP system operation, a midlevel programmer was given the materials that INS provides to employers and was asked to install and run the program. She recorded problems encountered during the process and improvements she thought would be helpful. Finally, she was asked to review the more extensive system testing report prepared for the Basic Pilot and to determine if any of the problems noted in that report had been resolved.

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<sup>7</sup> This percentage was adjusted to account for the sampling rate used in selecting I-9 forms. For example, if an employer had 300 transaction database entries during the overlap period and the interviewer selected one of every two I-9 forms, the expected number of matched transaction database records would be 150. If the actual number of matched I-9 forms was 100, this percentage would be 100/150 (67 percent).

## **7. INTERVIEWS WITH FEDERAL OFFICIALS**

During the Basic Pilot evaluation, the evaluation team interviewed 15 senior officials and contractors from SSA and INS and other Federal offices within the U.S. Department of Justice who had current or previous 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. Much of the Federal cost information was also obtained through this mechanism.

Since most of the information collected in these interviews is relevant for all three pilot programs, officials were not systematically reinterviewed for the CAVP evaluation; instead, Federal officials and CAVP program staff were contacted, when appropriate, to obtain specialized or updated information for the CAVP evaluation.

## **8. SECONDARY SOURCES**

Several secondary data sources were used in the evaluation to describe the demographic, labor market, and industrial characteristics of the United States, the pilot States, and employers, in order to calculate cost figures and projections. These data sources include Federal databases (e.g., the U.S. Census Bureau's Current Population Survey) and reports (e.g., INS's *Statistical Yearbook* and the U.S. Department of Labor's *Report on the American Workforce*).

## **B. REASONS TESTERS WERE NOT USED**

One suggested component of the CAVP evaluation was to use testers to pose as job applicants. The purpose of this activity would have been to determine whether pilot employers were engaging in pilot-related discriminatory practices, since noncitizens were subject to a lengthier and more burdensome process than were U.S. citizens. The evaluation team decided that it was not prudent to use testers in this circumstance. To collect comprehensive information on discrimination related to the employment verification pilot program, the testers would have had to complete the full hiring process and at least the first 2 or 3 weeks of employment. Using testers in this way would have placed an unfair burden on employers, who might have invested resources into hiring and training these employees. A more limited use of testers, such as having them complete only the hiring process, would have placed fewer burdens on employers but would have provided more limited and less reliable information on discriminatory practices, since most occur after hiring. Given the sensitivity and limited utility of such an approach, the evaluation team was not inclined to use testers even on a more limited basis.

## **C. STRENGTHS AND LIMITATIONS OF THE EVALUATION METHODOLOGY**

To strengthen confidence in conclusions drawn from the findings, the evaluation of the CAVP used multiple data sources. The main benefit of such a design is that it provides a stronger basis from which to derive conclusions. Whenever questions arise in the analysis of data, multiple sources are available for confirming the findings.

As in every study, the data sources used in this evaluation have several limitations. Where possible, statistical adjustments were made to compensate for these limitations. The implications of such limitations are discussed below.

First, pilot establishments volunteered to participate. Voluntary participation limits the ability to generalize evaluation findings to employers other than those establishments that used the system, since these employers may be quite different than employers who do not volunteer.

Second, pilot establishments account for a small proportion of all establishments in the United States. Moreover, the participating States do not constitute a representative sample of all States in the Nation. Therefore, the evaluation results represent only those establishments that participated.

Third, several establishments that signed up for the pilot ultimately did not use it. All responses given by non-users to questions that could only be answered by users were converted to a response of “Not Applicable.” This adjustment occurred during the data cleaning phase and would have corrected for any invalid responses provided by non-users.

Fourth, as in all data collection efforts, some employers did not respond to the surveys. Weighting was used to adjust statistically for response bias. Weighting adjusts for differences between responding and nonresponding employers due to characteristics such as establishment size; however, weighting does not totally eliminate all sources of bias.

Fifth, missing information for some of the transaction database variables limited the usefulness of this data source. The missing information was related to demographic and identifying characteristics. However, case processing data can be considered reliable.

Finally, employee information was collected through the transaction database, the I-9 forms, and subsequent special studies. However, an employee survey was not conducted because of the limited size and scope of the CAVP.





## **CHAPTER IV. WAS THE CAVP PROGRAM DESIGN AND IMPLEMENTATION CONSISTENT WITH STAKEHOLDER EXPECTATIONS?**

### **A. INTRODUCTION**

The first step in a program evaluation is determining whether the program was consistent with the original expectations for it. Deviations from these expectations highlight areas where the program design might require modification to be effective. Scrutinizing program operations also helps to determine whether a failure to achieve intended results occurred because of implementation issues rather than program design.

This chapter focuses on three aspects of whether the Federal Government and employers have performed their respective roles in implementing the Citizen Attestation Verification Pilot (CAVP) program. Section B addresses the question of whether the CAVP guidelines in the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) specified a program that could potentially meet the expectations of the Commission on Immigration Reform and other proponents of automated pilot programs. Section C discusses how well INS did in implementing the IIRIRA provisions for the CAVP. Section D considers the extent to which employers have complied with the requirements of the CAVP.

### **B. DID THE IIRIRA STATUTORY GUIDELINES SPECIFY A CAVP PROGRAM CONSISTENT WITH THE EXPECTATIONS OF ITS PROPONENTS?**

As discussed in Chapter I, the General Accounting Office (GAO), the Commission on Immigration Reform, and other proponents of electronic verification of work authorization had clearly articulated goals for automated pilot programs and also provided several recommendations for attaining these goals. These goals were to create a system that would decrease unauthorized employment while protecting against discrimination, safeguarding privacy, and avoiding excessive employer burden. Congress presumably wished to establish a program that could meet these stakeholder goals. This section discusses whether the CAVP statutory guidelines were indeed designed to permit attainment of each of the four pilot goals.

#### **Goal 1: Decreasing Unauthorized Employment**

*The CAVP legislation specifies a program that has the potential to reduce certain types of unauthorized employment; however, these legislative provisions also have the potential to increase fraudulent attestation of U.S. citizenship and thereby increase unauthorized employment.* It is reasonable to believe that the CAVP, like the other two IIRIRA programs, could effectively detect fraud when proffered documents contain information about nonexistent noncitizens, because the document information will not match the INS database (see Exhibit IV-1). However, the CAVP is unlikely to be more effective than the paper Form I-9 process in detecting fraud when employees attempt to

prove work authorization by presenting borrowed, stolen, or counterfeit documents containing information about real work-authorized persons, because the information on these documents will be consistent with the INS database. Furthermore, the paper Form I-9 and pilot employment verification programs are ineffective with employers that do not check work-authorization documents.

**Exhibit IV-1: Likely Effectiveness of the CAVP and the Paper Form I-9 Verification Process in Detecting Different Types of Fraudulent Documents**

Form I-9 Citizenship Attestation	Type of Document	Effectiveness of the Verification Process in Detecting Fraudulent Documents	
		Paper Form I-9	CAVP
Noncitizen	Low-quality counterfeit document relating to a nonexistent person	Moderate	High
Noncitizen	High-quality counterfeit document relating to a nonexistent person	Low	High
Noncitizen	Low-quality counterfeit document relating to a real person	Moderate	Moderate
Noncitizen	High-quality counterfeit or valid document relating to a real person	Low	Low
Citizen	Low-quality counterfeit document relating to a nonexistent person	Moderate	Moderate
Citizen	High-quality counterfeit document relating to a nonexistent person	Low	Very low
Citizen	Low-quality counterfeit document relating to a real person	Moderate	Moderate
Citizen	High-quality counterfeit or valid document relating to a real person	Low	Low

NOTE: Ratings are based on the entire verification process, including employer review of documents.

Compared to the paper Form I-9 process, the CAVP program specified in IIRIRA (section 403(b)(3)) includes less effective provisions for detecting fraud involving counterfeit documents about nonexistent U.S. citizens. Unlike the other IIRIRA pilots, the CAVP allows individuals attesting to U.S. citizenship to meet all the Form I-9 requirements by presenting an identity document with a photograph, such as a driver’s license, nondriver identification card, or school ID, without proof of citizenship. The other employment verification processes require that employees document their citizenship. Because of this “loophole,” it is reasonable to expect that the rate of fraudulent attestation of citizenship would increase under the CAVP compared to the level under the paper Form I-9 process.

In creating this apparent anomaly, Congress was partially relying upon IIRIRA’s increased penalties for fraudulent attestation of U.S. citizenship (section 215)<sup>1</sup> to

<sup>1</sup> 142 *Congressional Record* H10841-02.

significantly deter such behavior. However, Congress was being overly optimistic about that provision's likely effect given the strong motivation that undocumented workers have to obtain employment and the low priority INS has given to worksite enforcement operations. Not only is there a small likelihood of fraudulent attestation coming to the attention of authorities, but there is an extremely low likelihood that an apprehended employee would be prosecuted and convicted for fraudulent attestation of U.S. citizenship. Contrary to the hopes of the framers of the CAVP, prosecutions for false attestation to U.S. citizenship have not increased nationally or in CAVP States since IIRIRA was enacted.<sup>2</sup>

It is also possible that Congress envisioned a system similar to those recommended in some of the reports discussed in Chapter I. These reports advocated a more secure verification system based on State-issued documents – driver's licenses and nondriver identification cards – where information on identity and citizenship is verified as part of the issuance process and where the cards themselves are counterfeit resistant. However, IIRIRA did not explicitly make such procedures a criterion for a State's participation in the CAVP. IIRIRA makes participation in the CAVP contingent on whether the State's driver's license and documentation meet the following criteria:

...to have security features, and to have been issued through application and issuance procedures, which make such document sufficiently resistant to counterfeiting, tampering, and fraudulent use that it is a reliable means of identification for the purposes of this section.

Although this clause could be interpreted to mean that State documents must include proof of citizenship status, the emphasis is clearly on preventing identity fraud. Furthermore, since none of the States were issuing driver's licenses or nondriver identification cards that indicated citizenship status on the card, it was reasonable to assume that Congress did not intend to establish a program for which no State could qualify.<sup>3</sup> Therefore, even the most secure State driver's license or nondriver identification card provided no real assurance to employers that persons claiming to be citizens on the I-9 form, exempting them from the electronic verification process, were actually U.S. citizens, further eroding the effectiveness of this pilot. Moreover, some States were issuing driver's licenses without regard to immigration status, resulting in some potential issuances of licenses to undocumented migrants.

Not only did the legislation fail to specify that the CAVP should be used only in States requiring citizenship verification as part of their licensing procedures, but it also

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<sup>2</sup> Nationally, on an annual basis, there are fewer than 1,000 cases of false claims to U.S. citizenship presented to U.S. Attorneys – and fewer than 100 result in convictions. Other violations related to false claims and documentation of U.S. citizenship that could conceivably relate to CAVP employees number fewer than 100 annually, with fewer convictions (U.S. Immigration and Naturalization Service, 1989).

<sup>3</sup> At the time IIRIRA was passed, California and Wyoming were the only States that verified with INS that noncitizen applicants were lawfully present in the United States. It is not known how many States verified the authenticity of all citizens' birth certificates with the issuing source, but, based on the information in INS's 1992 report, this practice was probably uncommon because of the workload implications for Departments of Motor Vehicles.

exempted from electronic verification all employees attesting to U.S. citizenship, even when the employee did not use a driver's license or nondriver identification card from a CAVP State or used another type of photo identification, such as a student identification card. Thus, a noncitizen without work authorization could obtain a fraudulent identity document, such as a driver's license from another State, and use that to obtain employment without having proof of citizenship, thereby being exempted from any proof of work authorization.

## **Goal 2: Reducing Discrimination**

*In creating the CAVP, IIRIRA establishes a verification program that is discriminatory on its face.* Unlike the other IIRIRA pilot programs, the statute (section 403(b)(3)) specifies that the CAVP is only to be used to electronically verify noncitizens. Since U.S. citizens are not subject to automated verification in the CAVP, only work-authorized noncitizens experience the inconvenience and other possible adverse effects of receiving tentative nonconfirmation findings. Furthermore, the extra employer burden associated with screening noncitizens means that the CAVP gives employers a potential disincentive to hire noncitizens.

## **Goal 3: Protecting Privacy**

*IIRIRA provides adequate provisions to safeguard the privacy and security of information used for automated employment verification.* More specifically, IIRIRA requires the automated system “to maximize its reliability and ease of use by persons and other entities...consistent with insulating and protecting the privacy and security of the underlying information” (section 404(d)(1)). Similar wording charges the Social Security Administration (SSA) (section 404(e)) and INS (section 404(d)) to ensure the security of the information. The evaluation team believes that, although general, the IIRIRA wording with respect to privacy provides sufficient guidance to the Executive Branch, which has extensive experience in guarding the privacy of data and presumably does not need specific instructions with respect to privacy.

## **Goal 4: Decreasing Employer Burden for Verification**

*IIRIRA contains adequate provisions protecting employers against undue burden during the implementation of the pilot programs.* First, the legislation specifies that “the Attorney General shall closely consult with representatives of employers...in the development and implementation of the pilot programs...” (section 402(a)). Second, the pilot programs are voluntary programs; therefore, if employers perceive the program to be excessively burdensome, they can simply not participate (section 402). Third, the legislation has a number of provisions requiring the Federal Government to provide prompt and accurate information and assistance to employers (section 404).

Furthermore, one of the primary reasons for testing the CAVP in addition to the other pilot programs is that it has the potential for burdening employers less than the other IIRIRA pilot programs, since only individuals who attest to being work-authorized noncitizens are electronically screened. Since the rate of fraudulent document detection is likely to be higher for noncitizen employees than for U.S. citizen employees, or those

attesting to U.S. citizenship, employers could conceivably find this system more cost-effective than the other pilot programs.

### **C. HOW WELL DID INS DESIGN AND IMPLEMENT THE CAVP TO MEET THE IIRIRA PROCEDURAL REQUIREMENTS?**

As discussed in the preceding section, the CAVP program specified by IIRIRA had the potential to meet some, though not all, of the goals for electronic verification programs. In this section, the evaluation team examines whether INS did a good job of implementing the CAVP within the constraints of the statutory guidelines. More specifically:

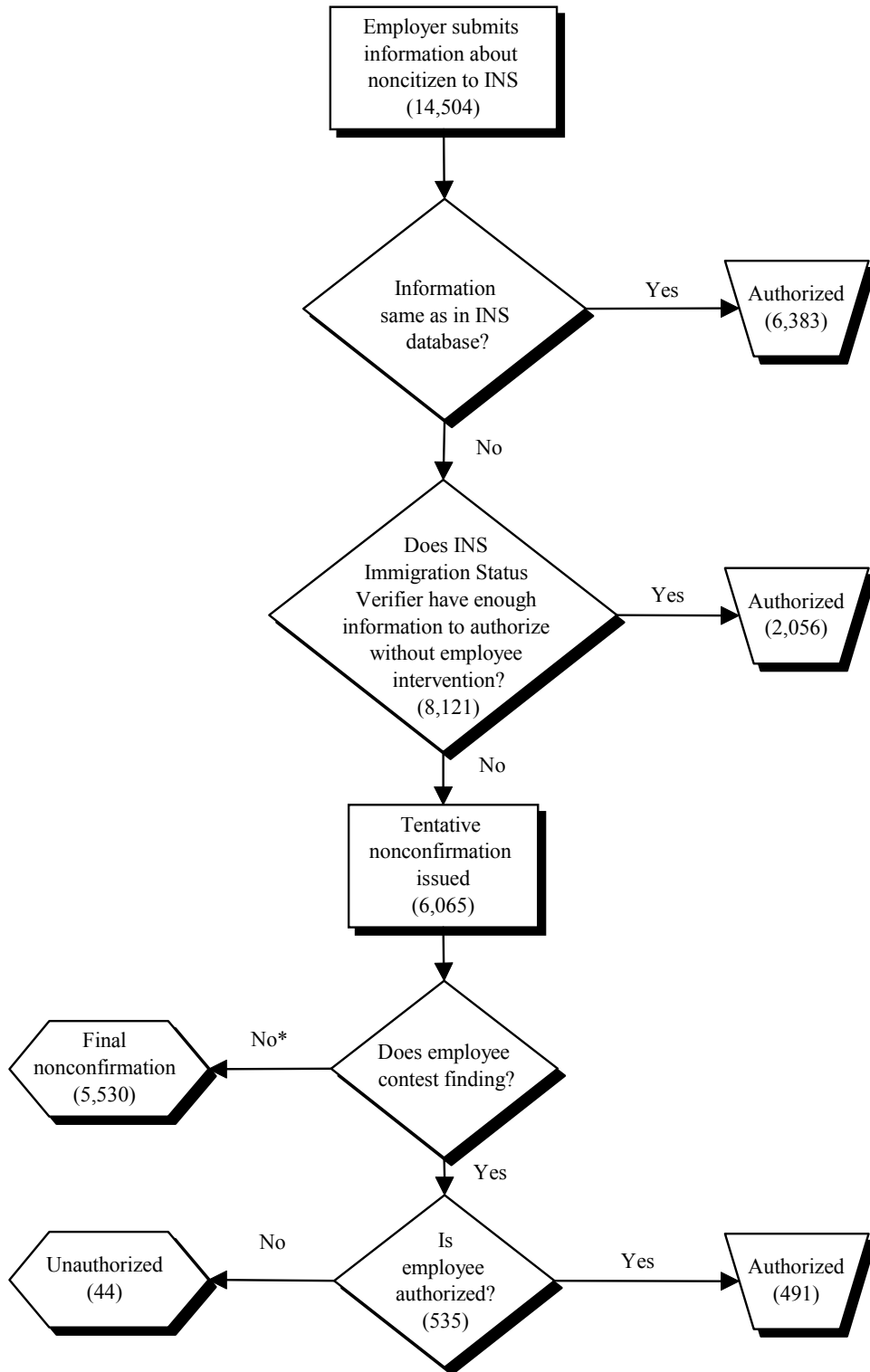
- Did INS provide appropriate restrictions for State participation in the CAVP?
- Did INS design the verification system to be consistent with IIRIRA provisions?
- Did the CAVP provide employers with timely information about the work-authorization status of noncitizen employees?
- Did the CAVP meet the IIRIRA requirements for data accuracy and reliability?
- Did the CAVP meet employers' needs and expectations?

To understand how well the CAVP verification system works, it is helpful to understand the system findings (Exhibit IV-2).

***The CAVP provided a final work-authorization status for more than half of the noncitizen employees screened.*** The system found 62 percent of the noncitizen employees to be work-authorized. Of all noncitizen employees processed through the CAVP, 44 (0.3 percent) received a conclusive finding of “unauthorized to work” and therefore were required to have their employment terminated.

***The CAVP was unable to capture the specific number of unauthorized workers among unresolved cases.*** Thirty-eight percent of employees verified by the CAVP received tentative nonconfirmations and did not contest these findings within the required timeframe. These cases defaulted to final nonconfirmation status (5,530 employees). Therefore, to comply with the law employers were required to terminate the employment of these workers. However, not all employees who did not contact INS lacked work authorization. The reasons why work-authorized employees did not contact INS included employer failure to properly notify the employee, employee resignation or firing for reasons unrelated to the pilot program, and the employee's decision that keeping the job was not worth the hassle of contacting INS.

**Exhibit IV-2: CAVP Pilot Program Verification Results (June 1999 to September 2001)**



\* Reasons for not contesting are varied, including employer failure to notify the employee of the tentative nonconfirmation.

## **1. DID INS PROVIDE APPROPRIATE RESTRICTIONS FOR STATE PARTICIPATION IN THE CAVP?**

*In initially selecting the participating States, INS had difficulty complying with the statutory requirements.* INS attempted to follow the guidelines set out in IIRIRA, that only States with stringent driver's license application and issuance procedures were to participate in the CAVP. However, INS encountered obstacles in implementing this statutory directive. First, the wording of the law was overly general, offering no specific guidelines on the security of driver's licenses. Second, carrying out the statutory guidelines required a rigorous review of the driver's license application and issuance standards in all States. In its 1992 *Report on the Security of State-Issued Documents*, INS reported that States were generally issuing counterfeit-resistant cards and making increasing use of technological advances.<sup>4</sup> This report also indicated that State licensing personnel may not always have the time or training to properly review supporting documentation.

To gather more up-to-date information on these findings, INS sent a survey to State Departments of Motor Vehicles through the American Association of Motor Vehicle Administrators.<sup>5</sup> However, the survey did not provide conclusive information regarding State practices. As discussed earlier, IIRIRA did not make State participation in the CAVP contingent on having procedures to prove citizenship status, nor did it require that citizenship status be included on the driver's license. However, INS could presumably have interpreted the legislation to include proof of citizenship status in the CAVP verification procedures.

*The INS decision to allow establishments outside of the CAVP States to participate further compromised the pilot.* IIRIRA permitted INS to allow participating employers to use the CAVP for establishments in non-pilot States, if those States met the document security requirements for certification in the program (section 402(c)(2)(B)(ii)). Although INS opted to permit this enrollment, it did not take steps to limit participation to establishments in States with licenses meeting the required security standards. As a result, 21 establishments from 11 non-CAVP States participated in the CAVP and, in fact, processed the majority (53 percent) of all pilot queries (Exhibit IV-3). Moreover, New Jersey, a State specifically excluded from selection as a pilot State because its driver's licensing requirements did not appear to meet the CAVP document security standards, had the second highest number of CAVP queries.

## **2. DID INS DESIGN THE VERIFICATION SYSTEM TO BE CONSISTENT WITH IIRIRA PROVISIONS?**

*INS did not follow the IIRIRA provisions for matching cases against the SSA database.* The verification system provided by IIRIRA called for matching CAVP cases against the SSA database as well as the INS database (section 404(e)). Because the CAVP was used

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<sup>4</sup> Section 5 of the Nursing Relief Act of 1989, P.L. 101-238.

<sup>5</sup> The survey is discussed in greater detail in Chapter II.



only to verify noncitizens, INS believed that it was reasonable for this pilot to verify only against INS records, since those were the best source of work-authorization information for noncitizens. This approach was consistent with earlier pilot programs that verified only noncitizens.

**Exhibit IV-3: Distribution of Participating Establishments and Queries by State**

States	Establishments Enrolled		Establishments Using the System		Percent of Queries	
	No.	%	No.	%	No.	%
CAVP						
MI	23	17.3	9	10.7	2,458	16.9
AZ	40	30.1	23	27.4	2,112	14.6
VA	22	16.5	14	16.7	1,224	8.4
MD	24	18.0	11	13.1	910	6.3
MA	24	18.0	6	7.1	69	0.5
Subtotal	133	100.0	63	75.0	6,773	46.7
Non-CAVP						
TX			1	1.2	3,034	20.9
NJ			1	1.2	2,553	17.6
NC			3	3.6	748	5.2
OR			1	1.2	406	2.8
PA			3	3.6	322	2.2
IN			4	4.8	320	2.2
KY			1	1.2	173	1.2
Other (CA, DE, SC, GA)			7	8.3	175	1.2
Subtotal			21	25.0	7,731	53.3
<b>Total</b>	<b>133</b>	<b>100.0</b>	<b>84</b>	<b>100.0</b>	<b>14,504</b>	<b>100.0</b>

NOTE: Data in the table represent transactions between June 1999 and September 2001.

SOURCE: Transaction Database

*The CAVP would have operated more efficiently if noncitizens' cases had been subject to an SSA database match prior to the INS database match, as provided by IIRIRA.* To estimate the probable SSA verification rate for CAVP cases, SSA matched CAVP cases against its database (Exhibit IV-4).<sup>6</sup> Based on this match, the evaluation team estimated that SSA would have automatically authorized a higher number of these noncitizen cases than INS did (approximately 8,880 cases, compared to the 6,383 cases for the INS database match).

<sup>6</sup> Unfortunately, a significant loss of employee data on the transaction database precluded the matching of most of the cases authorized by INS. It was therefore necessary to prorate these missing cases using the remaining 260 cases automatically authorized by INS. Additional information on this process is provided in Appendix C.

**Exhibit IV-4: Comparison of INS Findings and Estimates of Preliminary SSA Findings If CAVP Cases Had Been Screened Against the SSA Database Prior to the INS Match**

<b>Actual INS Finding</b>	<b>Probable SSA Preliminary Finding</b>			<b>Total</b>
	<b>Authorized Automatically by SSA</b>	<b>SSA Tentative Nonconfirmations Sent to INS for Further Screening</b>	<b>Sent to INS Because SSA Could Match But Not Confirm Work Authorization</b>	
Authorized automatically by INS*	5,720	467	196	6,383
Authorized after preliminary review by ISV	1,676	315	65	2,056
Authorized after employee contested tentative nonconfirmation	427	51	13	491
Final nonconfirmation/Unauthorized	1,057	4,429	88	5,574
<b>Total</b>	<b>8,880</b>	<b>5,262</b>	<b>362</b>	<b>14,504</b>

\* Of the 6,383 cases in this category, 6,123 cases were lacking identifying information needed to match the cases with the SSA database. The distribution of these cases was assumed to be the same as that of the 260 cases that could be matched.

Using the information in Exhibit IV-4, the evaluation team estimated the case findings for a modified CAVP program that requires matching noncitizen cases to the SSA database prior to preliminary review by an Immigration Status Verifier (ISV) (Exhibit IV-5). This estimate indicates that approximately 9,500 cases (66 percent of the 14,504 noncitizens screened by the CAVP) would have been found to be work-authorized instantaneously by an automated review that involved checking both databases, compared with 44 percent for the INS database check alone. Because INS did not conduct this extra check, employers, employees, and the Federal Government all experienced unnecessary burden.<sup>7</sup>

**Exhibit IV-5: Estimated Final Disposition If CAVP Cases Had Been Screened Against the SSA Database Before ISV Review, Compared to Disposition Under the Original CAVP Program**

<b>Final Case Disposition</b>	<b>Original CAVP Cases</b>	<b>Estimate for Modified CAVP</b>	<b>Percent Increase (Decrease) of Modified CAVP vs. Original CAVP</b>
Authorized automatically	6,383	9,543	49.5
Authorized after preliminary ISV review	2,056	380	(81.5)
Authorized after employee contested tentative nonconfirmation	491	64	(87.0)
Final nonconfirmation/Unauthorized	5,574	4,517	(19)
<b>Total</b>	<b>14,504</b>	<b>14,504</b>	

<sup>7</sup> There are several reasons why a noncitizen might be electronically verified by only one of the two agencies. For example, SSA uses the Social Security number in its match, while INS uses the Alien Number. If there were an input error on only one of these numbers, only one agency would confirm the case electronically. A second reason is that employees who change their names may notify only one of the two agencies.

***INS included the statutory provision that exempts employees attesting to U.S. citizenship from documenting their citizenship status, but this provision was not emphasized to employers.*** As noted in Section B, IIRIRA weakened the documentation requirements for employees attesting to U.S. citizenship. This language was included in the Memorandum of Understanding (MOU) for the CAVP (Article II, B (6)); however, INS did not emphasize this point in dealing with employers. This lack of emphasis is presumably why employers were generally unaware of this IIRIRA provision. However, if a program similar to the CAVP were implemented on a widespread basis, the “loophole” would likely become common knowledge to individuals who produce or use fraudulent documents.

***According to INS officials, one underlying reason why INS did not do a better job in implementing the program was that the CAVP was subject to less intensive examination than the Basic Pilot program.*** It is not uncommon to pay more attention to the first of a series of similar programs than to those programs that follow. In this case, the lack of attention was also attributable to the fact that the CAVP was seen as being almost identical to the earlier Employment Verification Pilot (EVP) program. According to INS officials, employers and INS both viewed the EVP as less desirable than the Joint Employment Verification Pilot (JEVP), which served as the prototype for the Basic Pilot program. Further, employer interest was far lower for the CAVP than for the Basic Pilot. For example, based on records maintained by INS, 61 percent of employers who called INS to inquire about signing up for the Basic Pilot program actually signed an MOU. However, only 39 percent of the employers calling about the CAVP program signed an MOU. On the basis of this experience, INS policymakers assumed from the start that the CAVP would prove to be inferior to the Basic Pilot and, therefore, did not put as much effort into the CAVP.

### **3. DID THE CAVP PROVIDE EMPLOYERS WITH TIMELY INFORMATION ABOUT THE WORK-AUTHORIZATION STATUS OF NONCITIZEN EMPLOYEES?**

***The CAVP instantly verified close to half of employee queries.*** The CAVP instantly confirmed the work-authorization status of 44 percent of cases (6,383 employees) electronically processed. An additional 14 percent of cases (2,056 employees) were verified after initial review by an ISV, which, according to ISV reports, occurs within 1 day of case submission. Many of the cases that were not quickly resolved were cases in which employees were not work-authorized.<sup>8</sup>

***INS usually provided employers with final work-authorization status for employees within the specified time limits.*** IIRIRA (section 404(c)) requires INS to provide final confirmation of an employee’s work-authorization status within 10 Federal working days from the date the employer refers the employee to INS.<sup>9</sup> ISVs may request additional time to complete a case when needed. According to employers’ responses to the mail

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<sup>8</sup> See Chapter V for additional discussion of the composition of the group of employees who were not quickly verified.

<sup>9</sup> This period includes the 8 working days in which the employee is to contact INS with additional information if needed.

survey, INS infrequently required the additional time. Ninety percent of employers responding to the mail survey said that, on average, they received the final result within 10 working days. Notably, half of these employers reported receiving their results within 5 days.

#### **4. DID THE CAVP MEET THE IIRIRA REQUIREMENTS FOR DATA ACCURACY?**

*Only a small proportion of noncitizen employees received a conclusive finding that they were not authorized to work.* Only 0.3 percent of all noncitizen employees processed through the CAVP (44 employees) received a conclusive finding of “unauthorized to work” and therefore were required to have their employment terminated (Exhibit IV-5).

*The INS database used for verification is not sufficiently up to date to meet the IIRIRA requirement for accurate verification.* IIRIRA states that “the...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)). However, INS officials reported that the INS database is not always up to date. As a result, an estimated 17 percent of *work-authorized* noncitizens received tentative nonconfirmations. Although it is unrealistic to expect any database system to be completely accurate, the evaluation team believes that 17 percent is an unacceptably high error rate.

INS officials identified two major factors that contribute to database inaccuracy: incomplete upload of data for persons recently issued new or replacement employment authorization documents (EADs) and delays in data entry for new arrivals to the United States. According to INS, some of the database inaccuracy has resulted from major increases in workload associated with several new groups of noncitizens who have been admitted and authorized to work in the United States as a result of new legislation and administrative actions. These changes have more than doubled the number of requests for EADs that INS has received in the past decade. INS reports that it is making both policy and operational changes to significantly reduce the delays between the time a person becomes authorized to work, when the information is entered into the INS database, and when INS documentation is issued. Although the timeliness of data entry has improved for new arrivals to the United States since the pilot evaluation concluded, improvements to data entry for EADs are taking longer to implement.

#### **5. DID THE CAVP MEET EMPLOYERS’ NEEDS AND EXPECTATIONS?**

This section addresses the following specific questions:

- Did employers report that the CAVP training resources, customer service, and technical support were satisfactory?
- Did INS provide a software system that was easy to use?
- What did employers perceive as advantages and disadvantages of the CAVP?
- Was the CAVP an attractive option for a broad spectrum of employers?

**a. DID EMPLOYERS REPORT THAT THE CAVP TRAINING RESOURCES, CUSTOMER SERVICE, AND TECHNICAL SUPPORT WERE SATISFACTORY?**

***INS provided participating employers with the materials needed to implement the CAVP.*** Employers who participated in the CAVP said that they received materials from INS that allowed them to access the INS database. These materials included the system software with instructions, a user's manual, a computer-based tutorial, materials to be posted to inform workers of the employer's participation in the CAVP, and anti-discrimination notices in English and Spanish. INS did not provide employers with hands-on or individual training, in order to test training methods that might be used in a larger scale program. INS did, however, provide participating employers with a customer service hotline to call for any necessary support.

***Most employers who used the training materials found them "very useful," but they also noted several deficiencies.*** Sixty-seven percent of employers that used the system reported using the instruction manual, and an equal proportion reported using the computer tutorial to train staff on the system.<sup>10</sup> Of employers who responded to the mail survey, 85 percent of those who used the computer tutorial and 69 percent of those who used the training manual said that these resources were "very useful." However, in on-site interviews, some employers said that it would be helpful to have additional technical information in the manual such as additional information on how to install the modem. INS staff reported that they plan to improve the instructions on operating the system.

***Employers reported general success in obtaining customer support to resolve CAVP problems.*** CAVP employers were able to request support through a toll-free number. Sixty-five percent of employers responding to the mail survey said that customer service staff "often" or "always" resolved issues with tentative nonconfirmations, a key component in the CAVP employment verification process. An equal proportion stated that customer service personnel "often" or "always" responded to their complaints.

***Employers said that INS customer service representatives were polite but not always available when needed.*** Although the MOU does not explicitly specify the quality of the services INS should supply, it is reasonable to expect that customer support services be accurate and user friendly. These services should also be provided promptly and in a courteous manner. Even though 87 percent of employers said that INS staff were "often" or "always" polite, some mail survey respondents complained about tardiness in returned calls, busy signals, and being kept waiting on hold. Eleven percent of employers complained that INS customer support staff "never" returned calls promptly, and 31 percent said that their time was "often" or "always" wasted when they waited on the telephone, either because of a busy signal or when they were put on hold.

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<sup>10</sup> The system is designed so that new users must use the tutorial before they can obtain a password. However, employers can circumvent this requirement.

***Employers reported limited success in obtaining support to resolve computer-related technical difficulties.***<sup>11</sup> Although a majority of employers reported general satisfaction with the support they received on CAVP operations and procedures, they were less satisfied with the quality of the technical support they received. Further, 56 percent of employers interviewed on-site said that they encountered technical difficulties after the CAVP was set up. Some employers – especially those who had problems accessing the system – said that their problems were ongoing. In fact, 63 percent of employers who reported technical problems and 74 percent who reported other difficulties stated that these problems continued at the time of the interview.

***b. DID INS PROVIDE A SOFTWARE SYSTEM THAT WAS EASY TO USE?***

***The CAVP system lacks many user-friendly features and basic edit checks that could help prevent data entry errors.*** The CAVP software lacks some common user-friendly conventions. More importantly, the current software does not include edit checks, such as restricted data ranges, for many variables. Edit checks, a basic feature of most data entry software packages, help to reduce the occurrence of common data entry errors. For example, a hire date of 7/18/1800 would be automatically rejected by such a system as an out-of-range entry. Similarly, an edit check would inform the user that a birthdate of “23/5/1982” is an invalid entry, and the program might even suggest an alternative, such as reversing the month and day. Such validity checks would permit CAVP employers to immediately correct some errors and thus issue fewer tentative nonconfirmations, which may have negative consequences for work-authorized employees.

***Employers reported that CAVP modem compatibility requirements caused technical problems.*** Employers gain access to the INS database using a computer modem, which is critical to the operation of the CAVP system. During on-site interviews, employers often cited problems with their modems. Some employers complained that the CAVP software did not accept a wide variety of modems, whereas others reported difficulty in setting up the modem to operate the CAVP system. Moreover, the evaluation system tester noted that the system is compatible with only selected modems, which may not include the modem installed on the personal computer the employer is using for the pilot.

***c. WHAT DID EMPLOYERS PERCEIVE AS ADVANTAGES AND DISADVANTAGES OF THE CAVP?***

***Most employers found the CAVP to be an effective, reliable tool for employment verification and reported positive experiences using it.*** Ninety-seven percent of respondents to the employer mail survey believed the CAVP to be an effective tool for employment verification, and 82 percent also believed that work authorizations obtained through the CAVP were more reliable than those obtained through the Form I-9 process alone. Fifty-five percent of employers interviewed on-site stated that the CAVP

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<sup>11</sup> INS refers all technical problems to its contractor, which has the expertise to respond to these issues.

increased their confidence that newly hired employees were work-authorized. These results may, in part, reflect the fact that these employers volunteered to participate in the program and therefore began with positive views of the pilot.

***Almost all CAVP employers identified benefits of the CAVP system.*** According to 97 percent of CAVP users who were interviewed on-site, one advantage of the system is feeling comfortable that the establishment is in compliance with the law (Exhibit IV-6). An additional advantage recognized by the vast majority of employers (92 percent) is an increased confidence in the establishment’s ability to detect noncitizen employees who are not authorized to work. Decreasing the likelihood of employment sanctions and penalties was also identified as a benefit by more than three-quarters of employers (78 percent). Another benefit cited by most employers (81 percent) is that the CAVP gives employees a chance to correct their INS records. Most of these benefits are related to one of the main goals of the CAVP: to provide employers with a tool for detecting employees who do not have work authorization.

**Exhibit IV-6: Employer Views on the Advantages of the CAVP**

<b>Employer View</b>	<b>Percent of Employers</b>
The CAVP makes the employer feel comfortable that the establishment is in compliance with the law.	97
The system increases confidence in the establishment’s ability to detect noncitizens who are not eligible to work.	92
The CAVP gives employees an opportunity to correct their INS records.	81
The system decreases the likelihood of employment sanctions.	78
The CAVP decreases the likelihood of an INS audit.	47

SOURCE: On-Site Employer Survey

***Most employers were not overburdened by the CAVP.*** The majority of employers responding to the mail survey (89 percent) reported that CAVP tasks do not overburden staff. In addition, almost all respondents (93 percent) stated that it is possible to fulfill CAVP obligations. This result is consistent with findings from the evaluation of the Basic Pilot program.

***Many employers believe that they lose their training investment as a result of the CAVP process.*** IIRIRA requires employers to wait up to a total of 10 Federal working days for employees to contest their cases and for INS to issue a final case finding. The CAVP prohibits employers from dismissing or withholding training from these employees during this period. In the CAVP, 56 percent of noncitizen employees were not instantly verified. Forty-one percent of employers interviewed on-site 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 (Exhibit IV-7).

***Employers also identified other disadvantages of the CAVP system.*** Another concern, expressed by 24 percent of employers, is that employees lose time from work when they must contest tentative nonconfirmations. In the view of 38 percent of employers interviewed on-site, the CAVP increases the burden of processing newly hired workers.

Other disadvantages cited to a lesser extent by employers include the difficulty of finding workers, increased discrimination, and the potential violation of employee privacy rights.

**Exhibit IV-7: Employer Views on the Disadvantages of the CAVP**

<b>Employer View</b>	<b>Percent of Employers Agreeing</b>
Employers lose training investments or work time when nonverified employees leave.	41
The CAVP increases the burden of processing newly hired workers.	38
Employees lose work time when contesting tentative nonconfirmations.	24
The CAVP makes it harder to find workers.	17
The CAVP increases discrimination against noncitizens.	13
The CAVP represents a potential violation of employee privacy rights.	3

SOURCE: On-Site Employer Survey

***Many more employers reported that using the CAVP created a competitive advantage for their establishment than reported that it created a competitive disadvantage for them.*** Forty-nine percent of mail respondents agreed that the CAVP created a competitive advantage for their establishments, compared to 11 percent who reported that it made them less competitive. The remaining 40 percent of employers believed that the CAVP did not affect how competitive they were. In open-ended responses, some employers cited as a competitive advantage the on-site technology to verify the authorization status of employees, enabling the establishment to comply with the law. A disadvantage mentioned was the possibility of losing to a competitor an employee who wished to avoid working for a CAVP employer. Additionally, 20 percent of employers said that the number of authorized workers had decreased.

***Most participating employers said that the CAVP reduced unauthorized employment, but that the process may have also discouraged some authorized employees from applying for or continuing employment.*** A central goal of the CAVP is to reduce unauthorized employment without hindering the employment of authorized workers. In the mail survey, 59 percent of pilot employers “agreed” or “strongly agreed” that the number of unauthorized workers who applied for jobs had decreased when the CAVP verification system was used.

***d. WAS THE CAVP AN ATTRACTIVE OPTION FOR A BROAD SPECTRUM OF EMPLOYERS?***

Two indicators of a program’s attractiveness to its intended users are participants’ responses to opportunities to enroll in the program and whether they use it after they enroll. If few employers who learn about a program decide to participate, or if many of those who originally volunteer to participate fail to use the system, it is possible that the program is attractive to only a limited number of employers.

***INS staff involved in recruiting employers to the pilot reported little employer interest in the CAVP.*** Only 133 of the approximately 700,000 establishments in the CAVP pilot



States (fewer than 0.02 percent) signed up for the CAVP, despite publicity and recruiting efforts by INS staff.

***Fewer than half of employers who signed an MOU with INS, which included agreeing to use the CAVP, actually used the system.*** According to the information on the transaction database, 102 of the 187 establishments enrolled in the CAVP program (55 percent) did not submit any queries to the transaction database. However, only 27 percent of employers responding to the mail survey reported that they had not actually used the system. One possible reason for the difference between these two estimates is that employers who had unsuccessfully attempted to transmit cases reported using the system. The difference might also be attributable to overreporting of system use by employers who wanted to appear cooperative with the pilot, as well as a greater tendency of system users to respond to the survey. Finally, the difference could be indicative of problems with the transaction database that led to some cases being excluded from the database.

Among the 24 employers reporting that they had never used the CAVP program, 15 cited problems in using the system, including 9 employers who perceived the program as burdensome and time-consuming and 6 who experienced technical difficulties. Other reasons given for not using the CAVP program included the lack of available trained staff and changes in the nature of participating employers.

#### **D. HAVE EMPLOYERS GENERALLY COMPLIED WITH CAVP REQUIREMENTS?**

CAVP employers are expected to meet both procedural and policy requirements that are explained in the MOU and other materials sent to employers. Procedural requirements direct employers in the use of the CAVP. Properly followed, these requirements can ensure that the work-authorization status of employees is verified efficiently and fairly. Noncompliance with policy requirements could result in discriminatory actions against employees or a specific class of employees, or the violation of employees' rights to privacy. For example, giving employees written notification of their tentative nonconfirmation status and referring them to INS are two critical steps in the CAVP verification process. If employers fail to follow these steps, employees do not have an opportunity to correct employer data entry errors or INS database errors that may have led to the tentative nonconfirmation. These employees may be fired (or, in the case of employers who prescreen job applicants, denied employment) without due process.

This section answers the following questions:

- Did employers use the database to verify *all* newly hired noncitizen workers and *only* newly hired noncitizen workers?
- Did employers provide employees with the information and assistance they needed to contest tentative nonconfirmations?
- Did employers follow other CAVP verification procedures?

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

*While most employers reported using the CAVP solely to verify new noncitizen employees, a substantial number used the CAVP for other purposes.* To determine how frequently employers used the CAVP to verify workers other than newly hired noncitizens, the evaluation team examined employer responses to questions about how they used the system. In addition, the evaluation team calculated statistics for each of the 52 employers that had provided I-9 forms for a period overlapping the time they were transmitting information to the transaction database.<sup>12</sup>

More than one-third of respondents to the on-site survey said that they used the CAVP to verify one or more categories of employees who should not be verified with the CAVP: job applicants, citizens, and/or employees who had worked at the establishment before the institution of the CAVP.

*Some employers used the CAVP to screen noncitizen job applicants.* During the on-site survey, 18 percent of the CAVP employers reported that they were using the CAVP to screen job applicants. Among the 52 employers with transaction database entries during the Form I-9 data collection period, 7 employers reported that they had verified job applicants using the CAVP system. In addition, 11 employers that did not report verifying job applicants had one or more transaction database cases in which the transaction entry date was before the hire date, suggesting that they could be screening job applicants. Thus, it is likely that the percentage of employers using the CAVP to screen job applicants is higher than was indicated by employer reports.<sup>13</sup>

*Some employers used the CAVP to verify employees hired before the CAVP started.* Sixteen percent of the employers reported using the CAVP to screen workers who had started employment before the initiation of the CAVP.

*Very few employers used the CAVP to verify U.S. citizens.* In the on-site survey, some employers reported that they used the CAVP to verify citizens; however, very few U.S. citizen cases were found on the transaction database. Although 10 percent of the employers reported using the CAVP to verify citizens, the review of I-9 forms found only 2 of 3,800 cases in which there were transaction database entries for employees who had attested to U.S. citizenship on the I-9 form. Given the low number of such cases, it appears unlikely that employers are using the CAVP to verify citizens.<sup>14</sup>

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<sup>12</sup> See Chapter III for information about this analysis.

<sup>13</sup> Other possible reasons for having a hire date after the query date include errors on the I-9 form and data input errors. On the other hand, employers may provide an incorrect date on the I-9 form to avoid the appearance of screening job applicants.

<sup>14</sup> The high rate of compliance with this particular requirement may be attributable, in part, to the design of the CAVP software, which does not permit employers to enter a status of U.S. citizen for CAVP employees

*It is likely that additional employers used the CAVP system in prohibited ways but did not report this use.* Among the 52 employers with both Form I-9 and transaction database information for the same period, there were 24 employers for which the evaluation team collected fewer I-9 forms than expected based on the number of transaction database entries and the Form I-9 sampling rate. Of these employers, 11 did not report using the CAVP system with employees other than newly hired noncitizens. It is reasonable to believe that, in at least some of these cases, I-9 forms were missing because the workers verified were not really recently hired noncitizens. Other possible reasons for an unexpectedly low number of I-9 forms are poor filing systems that prevented interviewers from locating all of the I-9 forms and interviewer errors in selecting and reporting Form I-9 information.

***Many employers who used the CAVP did not enter information for all of their newly hired noncitizen employees onto the Federal database.*** Of the 52 employers that had cases in the Form I-9 sample and entries on the transaction database during the same time, 32 employers (62 percent) did not have transaction database entries for all newly hired noncitizen employees during the overlap period. Employers were asked several questions to determine whether there were good reasons for missing transaction database entries. Employers having I-9 forms without corresponding transaction database entries did indicate, in many cases, that they had problems in using the system or had suspended using the system for a month or longer.

## **2. DID EMPLOYERS PROVIDE EMPLOYEES WITH THE INFORMATION AND ASSISTANCE THEY NEEDED TO CONTEST TENTATIVE NONCONFIRMATIONS?**

***Some employers said they did not notify employees of tentative nonconfirmation findings at all or did not notify employees in writing.*** Ten percent of mail survey respondents reported that they “never” provided their employees with written notification of tentative nonconfirmations, as required by CAVP procedures. An additional 6 percent said that they only “sometimes” provided written notification of tentative nonconfirmation.

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 INS.<sup>15</sup> Both notices also explain that employers cannot take adverse actions against employees while they are contesting the tentative nonconfirmation.

Most employers who did not provide notification in writing did so orally. Oral communication is not an effective means of communicating, especially when there are

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and requires an Alien Number (A-Number) or I-94 number for these employees. In these two cases, it appears that employers overcame these restrictions by entering a series of 9s in the A-Number field.

<sup>15</sup> Refer to Appendix G for copies of the tentative nonconfirmation and referral notices.

language barriers between employers and employees. The written notice allows the employee to obtain assistance from someone who can translate and/or explain it.<sup>16</sup>

***According to transaction database information, most employees referred to INS did not contact INS to resolve their cases.*** In three-quarters of the 2,135 cases with referral codes (1,600 cases), employees did not resolve their tentative nonconfirmation findings with INS. These employees did not contact INS at all, contacted INS after the 10-day period, or contacted INS but failed to comply with INS requests for additional information.

There are several possible reasons why employees did not follow up with INS.<sup>17</sup> Some employees may not have contacted INS because they were not work-authorized. Others may have feared INS for other reasons (e.g., they may have had household members who were not in the United States legally). Other employees may have decided to leave the employer for reasons unrelated to the tentative nonconfirmation or because they believed it was easier to find employment with a non-pilot employer than to resolve their status with INS. On the other hand, employers may have input referral dates without informing the employees or providing them with sufficient information to resolve their status. When the employee does not contact INS within 10 Federal working days, the CAVP system automatically labels the case as a “final nonconfirmation” and notifies the employer of the finding.

According to ISVs, it is likely that some pilot employees resolve their cases after the 10-day period or without going through the formal CAVP process. These employees are able to contact INS, straighten out their records, and provide the required documentation of this process to their employers.<sup>18</sup> In this situation, the employees presumably do not lose their jobs; however, the CAVP system would still automatically code these cases as “final nonconfirmations” after 10 days.

***Most employers said they exceeded CAVP requirements in providing assistance to their employees in processing work-authorization forms.*** Even though it is not an MOU requirement, more than 80 percent of employers said their staff is available to assist employees in completing I-9 forms. In addition, employers said that they let employees use copiers, telephones, and fax machines (69 percent); gave them access to translators (61 percent); and provided addresses and telephone numbers of agencies to contact (67 percent). Fifty-two percent of employers said they gave their employees unpaid time off to resolve work eligibility issues. Few employers, however, permitted paid time off for this purpose.

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<sup>16</sup> A hard-copy Spanish translation of the tentative nonconfirmation notice is made available to CAVP employers.

<sup>17</sup> The evaluation team has little information on why employees did not contact INS, because an employee survey was not conducted. This issue, which is presumably common to all of the automated pilot programs, will be explored in the Machine-Readable Document Pilot evaluation report.

<sup>18</sup> In other words, the employees followed the procedures that would be followed by non-pilot employees without proof that they have renewed expired EADs.

*Although most employers said they encouraged employees to contest their tentative nonconfirmations, some employers did not.* Eleven percent of employers responding to the mail survey reported that they discouraged employees from contesting tentative nonconfirmations because the process takes too long. Another 7 percent said they discouraged employees in this situation because eligibility rarely results. Twenty-five percent of employers responding to the mail survey reported restricting work assignments while employees contested their tentative nonconfirmations. None of these practices is consistent with the CAVP guidelines for employers.

### **3. DID EMPLOYERS FOLLOW OTHER CAVP VERIFICATION PROCEDURES?**

*Employers often did not enter a referral date and therefore did not officially refer to INS those employees who received tentative nonconfirmation findings.* When employees inform employers of their decision to contest tentative nonconfirmation findings, employers are required to refer the case to INS and enter that date into the CAVP system. The referral date becomes the starting date for the 10 Federal-working-day period for resolution of tentative nonconfirmations. Transaction database analyses indicate that employers entered referral dates for only 35 percent of the 6,065 tentative nonconfirmation cases (2,135 cases) (Exhibit IV-8). From the information on the transaction database, it is not clear what percentage of the 3,930 tentative nonconfirmation cases without referral dates are attributable to employees who did not contest the finding and what percentage are attributable to employers who did not properly inform employees about their tentative nonconfirmation findings.<sup>19</sup> In this latter group, employees were unaware of a problem and thus unable to contest the tentative nonconfirmation. Consequently, at the end of 10 days, the status of all employees in this group defaulted to “final nonconfirmation.” The employer should then terminate the employment of these workers.

*Most employers did not comply with the INS request to enter closure codes for all cases.* The CAVP manual instructs employers to enter closure codes for all CAVP cases. These closure codes describe case outcomes at the end of the verification process. The codes available for employer input are (a) resolved authorized, (b) employee self-terminated/quit, (c) resolved unauthorized/terminated, (d) employee not terminated, and (e) invalid query/operator error. Missing closure codes in 96 percent of the cases that defaulted to final nonconfirmation (3,758 of 3,930 cases) impaired the evaluation team’s ability to determine what proportion of these employees did not contest the tentative nonconfirmations and what proportion were unable to contest because their employers did not notify them of the nonconfirmations. Although failure to input codes has little consequence for employees, it reduces information and therefore impedes the evaluation of the program and, potentially, future efforts to monitor the program using transaction database information.

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<sup>19</sup> These proportions cannot be determined because so few closure codes were input to indicate the exit status of each employee.

**Exhibit IV-8: Employment Verification Process and Results for the CAVP**

Verification Stage	Initial INS Finding	Employer Initial Action	Employee Initial Action	Employer Followup Action	Employee Followup Action	Final INS Finding	Number (%) of Cases
Stage 1: Immediate verification	Electronic confirmation	Not required	Not required	Not required	Not required	Authorized	6,383 (44.0)
	Confirmation after ISV review	Not required	Not required	Not required	Not required	Authorized	2,056 (14.2)
Stage 2: Tentative nonconfirmation cases	Tentative nonconfirmation (6,065 cases)	Notified employee of tentative nonconfirmation	Employee told employer he/she would contest tentative nonconfirmation	Referred employee to INS (2,135 cases)	Contacted INS and provided requested information	Authorized	491 (3.4)
					Did not follow up on referral	Not authorized	44 (0.3)
			Employee quit or told employer he/she would not contest tentative nonconfirmation	None	Final nonconfirmation	3,930 (27.0)	
		Did not notify employee of tentative nonconfirmation	None				

NOTE: Percentages are for total number of cases. This chart is simplified to highlight verification results and does not capture all employer actions, such as closing all cases/queries, inputting referral codes, and producing referral letters for employees.

SOURCE: Transaction Database

INS did not require employers to input closure codes to minimize the burden on employers who participated in the volunteer program. However, employers would probably have been more likely to comply with INS's request to input codes if the codes were clear. For example, there is no specific code for employees who were terminated because they decided not to contest the tentative nonconfirmation.

***Employers were not aware of the CAVP's reduced documentation requirements for U.S. citizens.*** Only four respondents to the on-site employer survey reported any changes in recruiting or hiring practices related to the number of documents needed to confirm work authorization for U.S. citizens. None of these employers reported changes related to the IIRIRA exemption of U.S. citizens from proving citizenship status.

## **E. SUMMARY**

In many respects, the CAVP was well implemented. Congress and INS succeeded in providing an employment verification tool that employers generally perceived to be effective, reliable, and not burdensome. The Federal Government also took reasonable precautions to ensure database privacy, and INS generally met the timeline goals set by IIRIRA. Furthermore, many employers did follow most of the employer requirements specified in the MOU they signed when agreeing to participate in the program.

However, the evaluation team also identified some significant deficiencies in the CAVP. Although the CAVP statutory guidelines envisioned a system that was more capable than the paper Form I-9 process of detecting fraud among employees attesting to being work-authorized noncitizens, IIRIRA made fraudulent attestation of U.S. citizenship easier by weakening the documentation requirements for employees attesting to U.S. citizenship. Since employers were generally unaware of this IIRIRA provision, it presumably had little impact on the pilot program. However, if a program similar to the CAVP were implemented on a widespread basis, it is likely that the "loophole" would become common knowledge to individuals who produce fraudulent documents.

The effectiveness of the CAVP program in detecting fraudulent claims to work authorization was further diminished by INS implementation procedures that did not restrict the program to States where citizenship status was verified at the time of license issuance. Furthermore, in an effort to increase pilot participation, INS permitted participation by some establishments in States with nonsecure driver's licenses or poor identity verification procedures.

A third major deficiency of the CAVP was that the INS database was not always up to date and that the CAVP software has few controls for data entry errors. Consequently, data entry errors and database inaccuracies resulted in an estimated tentative nonconfirmation rate of 17 percent for *work-authorized* noncitizens – an error rate that the evaluation team believes is excessively high and does not meet the IIRIRA accuracy and reliability requirements. Interestingly, the error rate could have been substantially reduced if INS had matched noncitizen Form I-9 information against the SSA database before matching it against the INS database – a procedure that was intended by IIRIRA but not implemented as part of the CAVP.

A fourth major program deficiency was the failure of many employers to adhere consistently to CAVP provisions designed to provide due process rights to employees receiving tentative nonconfirmations. Consequently, employers denied work-authorized employees the opportunity to work.

Finally, the CAVP program specified in IIRIRA is clearly discriminatory on its face. Since only noncitizens are subject to automated screening, erroneous tentative nonconfirmations may result. Employer failure to adhere strictly to the CAVP due process requirements, combined with the high error rate, ensure that the discriminatory aspects of the CAVP are not trivial.

In sum, although employers have generally expressed satisfaction with the CAVP, the program is not consistent with the goals expressed by the Commission on Immigration Reform and other stakeholders for automated employment eligibility verification. Chapter V further explores how well the CAVP met these policy goals.





## CHAPTER V. DID THE CAVP ACHIEVE ITS PRIMARY POLICY GOALS?

### A. INTRODUCTION

This chapter evaluates whether the Citizen Attestation Verification Pilot (CAVP) program achieved its policy goals. The policy goals of each of the employment verification pilots authorized by the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) are to create a system that is effective in minimizing the employment of unauthorized workers and reducing fraudulent claims to citizenship and that is nondiscriminatory, protective of privacy, and not burdensome. Chapter V addresses each of these policy goals by providing background information and highlighting relevant findings.

### B. DID THE CAVP REDUCE UNAUTHORIZED EMPLOYMENT IN PARTICIPATING ESTABLISHMENTS?

#### 1. BACKGROUND

As discussed throughout this report, all newly hired employees should provide their employers with valid legal documents to prove that they are authorized to work in the United States; however, there are many noncitizens without work authorization who are employed. To understand the implications of the CAVP program for the employment of unauthorized workers, it is helpful to understand the methods that are commonly used to obtain employment among noncitizens who are not authorized to work in the United States. Specifically, they are using counterfeit documents, using borrowed or stolen documents, and looking for alternative employment, including employment with employers who do not check documents. This section describes the expected impact of the CAVP on these alternative methods of obtaining unauthorized employment.

#### *a. WAYS NONCITIZENS WITHOUT WORK AUTHORIZATION OBTAIN EMPLOYMENT*

**Using counterfeit documents.** Individuals without work authorization sometimes obtain work by presenting counterfeit or altered documents. These documents are reportedly readily available in immigrant communities.<sup>1</sup> Current employment verification procedures require the employer to certify on the I-9 form that the documents presented by the newly hired employee "...appear to be genuine..."<sup>2</sup> In this situation, the likelihood of an employer detecting counterfeit documents depends on the quality of the documents, the employer's familiarity with various immigration and other documents,

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<sup>1</sup> The magnitude of this business is reflected in a 1998 News Release in which INS reported seizing more than 2 million fraudulent identification documents, including high-quality Resident Alien Cards, Social Security cards, and driver's licenses from nine States. INS estimated the "street value" of these documents at between \$40 and \$200 each. INS continues to make regular seizures of fraudulent immigration and other documents that can be used to demonstrate identity and work authorization in the Form I-9 verification process.

<sup>2</sup> An I-9 form is included in Appendix E.

and the employers' expertise in detecting fraudulent documents. INS expects employers to exercise reasonable diligence in reviewing documents but not to be experts or to question reasonable-appearing documents.

The CAVP program adds the extra step of checking whether the information on the documents presented by noncitizen employees is consistent with information in INS records. Assuming that these checks work as intended, they will assist employers in detecting counterfeit documents containing information about nonexistent persons. However, if the counterfeit documents are of reasonable quality and contain information about actual work-authorized persons who could reasonably be the bearer, the CAVP system will incorrectly confirm the individuals as work-authorized.

***Borrowing or stealing documents.*** A second way for unauthorized immigrants to obtain work is to use valid documents belonging to another person. For example, individuals may borrow documents belonging to relatives or friends with similar characteristics or use stolen documents. 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 CAVP 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 currently 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-employed<sup>3</sup> 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 CAVP or any employment verification system can prevent this type of alternative employment by unauthorized workers.

***b. EXPECTED IMPACT OF THE CAVP VERSUS THE BASIC PILOT ON THE EMPLOYMENT OF NONCITIZENS WITHOUT WORK AUTHORIZATION***

The CAVP and the Basic Pilot programs are expected to be equally effective or ineffective in deterring employment of noncitizens without work authorization in most situations (see Exhibit V-1). They are expected to be equally effective against counterfeit fraud in most cases in which the documents contain information about nonexistent noncitizens. Neither pilot program is expected to be effective against fraud in which borrowed or stolen documents are used to prove work authorization, counterfeit fraud in

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<sup>3</sup> According to the Small Business Administration, approximately 7.2 percent of the civilian workforce are self-employed ("Small Business Frequently Asked Questions Card," <http://www.sba.gov>, accessed March 20, 2001). However, the percentage of self-employed persons among undocumented workers may be quite different.

which the documents contain information about a real work-authorized person, and employment with employers who do not check work-authorization documents.

The CAVP is expected to be less effective than the Basic Pilot and the paper Form I-9 process in detecting fraud involving counterfeit documents about nonexistent citizens. Unlike the Basic Pilot, the CAVP does not determine whether the Form I-9 information is consistent with database information from the Social Security Administration (SSA). Furthermore, the CAVP allows individuals attesting to U.S. citizenship to meet the Form I-9 requirements by presenting an identity document with a photograph, such as a driver’s license, a nondriver identification card, or a school identification document, without proof of citizenship. The paper Form I-9 process used by most employers and the Basic Pilot both require, in addition to an identity document, a document proving that the person is a citizen or a work-authorized noncitizen.<sup>4</sup>

**Exhibit V-1: Likely Effectiveness of the Paper Form I-9, Basic Pilot, and CAVP Employment Verification Processes in Detecting Different Types of Fraudulent Documents**

Citizenship Attestation on Form I-9	Type of Fraud Type of Document	Effectiveness in Detecting Fraudulent Documents		
		Paper Form I-9	Basic Pilot	CAVP
Noncitizen	Low-quality counterfeit document relating to a nonexistent person	Moderate	High	High
Noncitizen	High-quality counterfeit document relating to a nonexistent person	Low	High	High
Noncitizen	Low-quality counterfeit document relating to a real person	Moderate	Moderate	Moderate
Noncitizen	High-quality counterfeit or valid document relating to a real person	Low	Low	Low
Citizen	Low-quality counterfeit document relating to a nonexistent person	Moderate	High	Moderate
Citizen	High-quality counterfeit document relating to a nonexistent person	Low	High	Low
Citizen	Low-quality counterfeit document relating to a real person	Moderate	Moderate	Moderate
Citizen	High-quality counterfeit or valid document relating to a real person	Low	Low	Low

NOTE: Ratings are based on the entire verification process, including employer review of documents.

**2. FINDINGS**

As discussed in Chapter IV, the CAVP program rarely results in a conclusive finding that a noncitizen is not authorized to work, since individuals without work authorization are unlikely to contest tentative nonconfirmation findings. To be in compliance with the law,

<sup>4</sup> A single document, such as a U.S. passport, can serve both purposes; however, the CAVP does not require using a single-purpose document.

employers are required to terminate the employment of workers who are classified by the CAVP as having final nonconfirmation findings. However, not all employees who receive final nonconfirmation findings lack work authorization. Work-authorized employees may not contest tentative nonconfirmations for a number of reasons. For example, some employers do not inform employees that they have received tentative nonconfirmations. Other work-authorized employees do not contest because they decide it is easier to find work elsewhere, or they quit or are fired for reasons unrelated to the CAVP program.

To evaluate how effective the CAVP program is in deterring the employment of unauthorized workers, the evaluation team relied on several sources of information that permitted estimation of the number of employees with final nonconfirmations who are, in fact, work-authorized. These sources included analyses of the CAVP transaction database, employer surveys, I-9 forms, and INS record reviews. The evaluation team also developed a model for estimating the number of undocumented CAVP workers among those who received final nonconfirmation findings.<sup>5</sup>

***The evaluation team estimated that the CAVP would have found approximately one-third of screened noncitizen employees to lack work authorization if the work-authorization status of all employees had been resolved.*** To determine the approximate proportion of noncitizen employees without work authorization among final nonconfirmation cases, the evaluation team used two different approaches. These methodologies resulted in similar estimates.

In the first methodological approach, a record review of Form I-9 cases was conducted. These cases were subjected to automated matches with the transaction database, the SSA database used in the Basic Pilot program, and the Alien Status Verification Index (ASVI) database.

Two members of the INS evaluation staff conducted an intensive record review of a sample of those cases whose work authorization could not be determined solely by the automated matches. In addition to the INS and SSA automated matches, the reviewers used Form I-9 information, inspected the copies of the I-9 forms and any attached documents, examined INS hard-copy files, and, if necessary, checked additional INS databases. On the basis of this review, they determined whether the selected employees were actually work-authorized at the time their Form I-9 information records were submitted to the CAVP system. Using this methodology, the evaluation team estimated that approximately 69 percent of noncitizen cases submitted to the CAVP would have been found to be work-authorized if all cases had been resolved.<sup>6</sup>

The second estimation technique used by the evaluation team was based on a model developed for this purpose. The model was based on information from the transaction database about Immigration Status Verifier (ISV) findings prior to the tentative nonconfirmation and the final resolutions of these cases (i.e., authorized, not authorized, or final nonconfirmation). The model allowed the evaluation team to estimate the percentage

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<sup>5</sup> See Appendix C for information about how these estimates were made.

<sup>6</sup> Additional information about this estimation methodology is presented in Chapter III and in Appendix C.

of final nonconfirmation cases that were not work-authorized using, first, estimates of the rate at which employers notified employees of tentative nonconfirmation findings and, second, the percentage of *work-authorized* employees who contest a tentative nonconfirmation finding (see Exhibit V-2). This approach produced an estimate that 33 percent of the noncitizen employees screened by the CAVP would have been found to be unauthorized to work if all final nonconfirmation cases had been resolved. This estimate is quite similar to the one computed from the record review study (31 percent). Since there is reason to believe that the cases in the record review study underestimate the percentage of cases without work authorization, the evaluation team assumed that the higher (model-based) estimate was more likely to be correct.<sup>7</sup> Using the CAVP cases depicted in Exhibit IV-2, Exhibit V-2 illustrates the estimated flow of cases if all cases had been resolved. According to these estimates, 9,702 individuals would have been authorized (6,383 during the automated review of cases, 2,056 during the preliminary ISV case review, and 1,263 after completion of the final resolution process). A total of 4,803 cases would have been found to be unauthorized to work.

***Almost half of new CAVP employees without work authorization are estimated to have escaped detection by fraudulently attesting to U.S. citizenship.*** As discussed in Section B1, the CAVP does not have strong safeguards against fraudulent citizenship attestation. Unlike the other IIRIRA pilot programs, the Basic Pilot and the Machine-Readable Document Pilot (MRDP),<sup>8</sup> the CAVP does not allow employers to use the pilot system to verify individuals who attest to being U.S. citizens. Furthermore, it does not require workers attesting to U.S. citizenship to show the additional documentation required of all other employees by the Basic Pilot program and the paper Form I-9 verification process to substantiate their U.S. citizenship; however, as discussed in Chapter IV, employers were apparently not generally aware of this IIRIRA provision.<sup>9</sup>

The evaluation team estimated the percentage of fraudulent citizenship cases as part of the Form I-9 record review study. To obtain an idea of the approximate frequency of fraudulent citizenship attestation in the CAVP, information input from I-9 forms for citizens was compared with information in the SSA database. This comparison indicated that SSA was able to confirm citizenship for 3,819 cases. A small sample (45 cases) of the remaining 527 citizen cases was examined further as part of the INS record review. Approximately half of this sample was found to be fraudulently attesting to U.S. citizenship. Based on these results, the evaluation team estimated that 5 percent of employees attesting to U.S. citizenship in the Form I-9 sample were making fraudulent claims of being work-authorized (Exhibit V-3).<sup>10</sup>

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<sup>7</sup> Appendix C discusses the likely bias in the record review estimate.

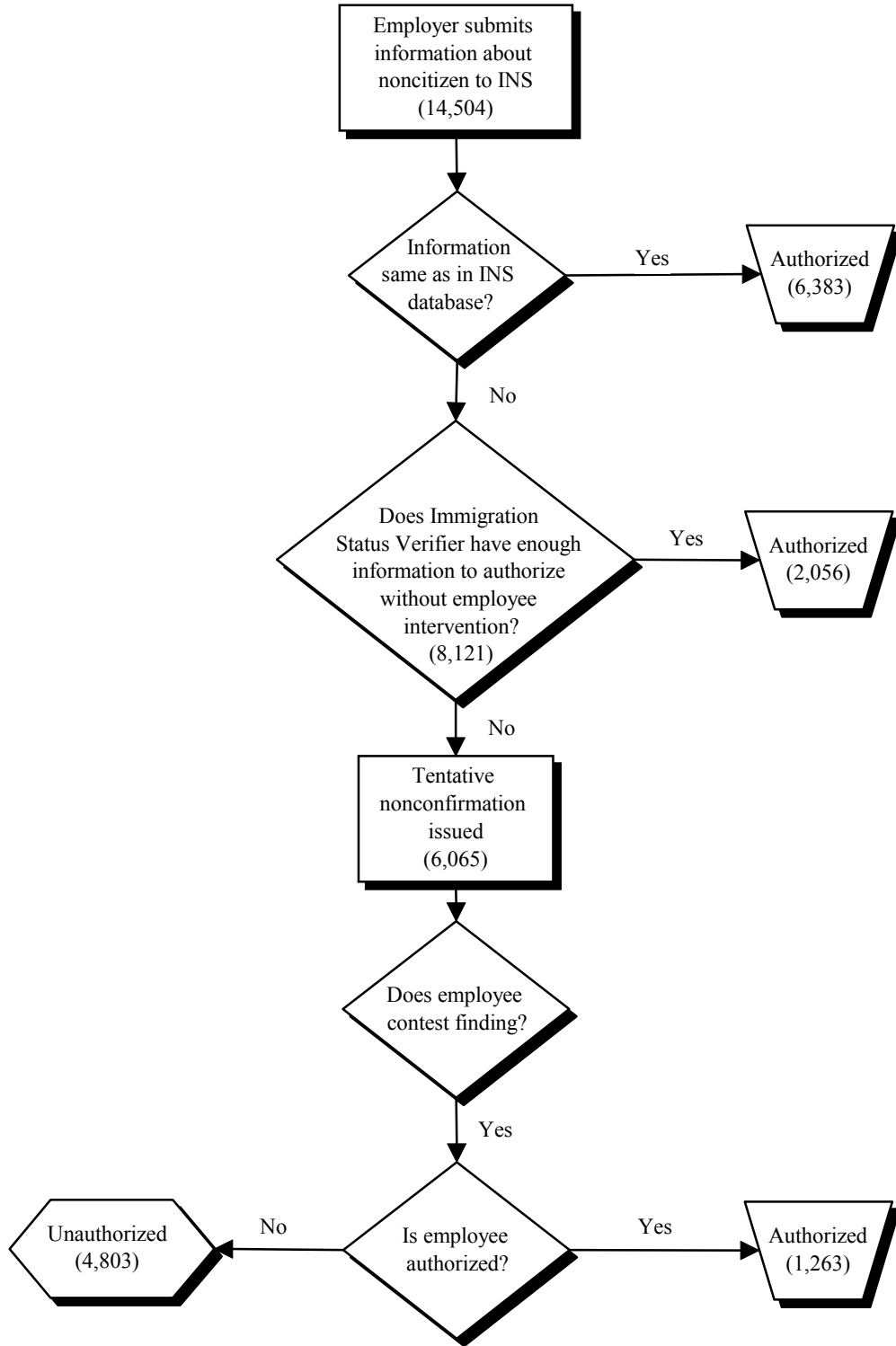
<sup>8</sup> These pilots are described in Chapter III.

<sup>9</sup> Employees who use a passport to verify identity under the other employment verification programs are exempted from showing a second document, because the passport verifies work-authorization status as well as identity. However, passports were infrequently used in the CAVP as identification documents. Among the I-9 forms collected, only 1 percent of employees used U.S. passports as identification.

<sup>10</sup> Additional information about the methodology used in the record review is provided in Chapter III and Appendix C.

**Exhibit V-2: Estimated CAVP Pilot Program Verification Results If All Tentative Nonconfirmation Cases Had Been Contested**

(June 1999-September 2001)



SOURCE: Model-based estimates

### Exhibit V-3: Estimates of CAVP Work-Authorization Rates, by Citizenship Status

Form I-9 Citizenship Status/Stratum	Form I-9 Sample	Work-Authorized		Unauthorized	
		No.	%	No.	%
Citizens					
Social Security number never issued	278	70	25	209	75
No match on name and/or date of birth	2,608	1,586	61	1,022	39
Citizen/noncitizen	501	397	79	104	21
Match citizen	22,162	22,162	100	0	0
<b>Total for citizens</b>	<b>25,549</b>	<b>24,215</b>	<b>95</b>	<b>1,334</b>	<b>5</b>
Noncitizens					
Social Security number never issued	103	42	41	61	59
No match on name and/or date of birth	1,131	415	37	716	63
Noncitizen or citizen/unknown	3,518	2,830	80	688	20
<b>Total for noncitizens</b>	<b>4,752</b>	<b>3,287</b>	<b>69</b>	<b>1,465</b>	<b>31</b>
Unknown	944	791	84	153	16
<b>Grand Total</b>	<b>31,245</b>	<b>28,293</b>	<b>91</b>	<b>2,952</b>	<b>9</b>

NOTE: Estimates in this table are weighted estimates. The Form I-9 sample consisted of 5,790 cases.

SOURCE: Estimated by the evaluation team using information from a record review of selected CAVP cases.

The estimated number of employees without work authorization who obtained employment by fraudulently attesting to U.S. citizenship was approximately 1,300 (5 percent of the individuals attesting to U.S. citizenship). This number is slightly less than the estimated number of noncitizens (1,500) who obtained employment by fraudulently claiming to be work-authorized noncitizens (see Exhibit V-3). In total, an estimated 45 percent of employees without work authorization claimed on their I-9 forms to be U.S. citizens, 50 percent claimed to be work-authorized noncitizens, and 5 percent did not indicate a citizenship status.

If the CAVP had been implemented in States with highly secure identification documents containing documentation of both identity and citizenship status in a format accessible to employers, and if only these documents could be used, there would be little, if any, value in screening citizens through the automated verification system. However, as discussed in Chapter IV, the State driver's licenses and nondriver identification cards in the pilot States were neither highly secure nor good sources of citizenship status.<sup>11</sup> Furthermore, even if these documents had been highly secure, they would not serve as a good way of verifying citizenship, unless citizenship or work-authorization status was verified as part of the licensing procedure and the status was recorded on the driver's license.

<sup>11</sup> According to a recent article by the National Conference of State Legislators (Reed et al., 2002), many States do not even require proof that the driver is in the United States legally.



Examination of the feasibility or desirability of implementing such procedures is beyond the scope of this evaluation.

***Employers believe that some unauthorized workers were deterred from applying to pilot employers.*** Employers participating in the CAVP are required to prominently display pilot program notices in locations where job applicants and new employees will see them. The majority of employers (59 percent) reported in the mail survey that they agreed or strongly agreed with the following statement: “The number of unauthorized workers who apply for jobs decreases when the CAVP verification system is used.” However, since it is not feasible to identify workers who would have applied to pilot employers if the CAVP program had not been in effect, it is impossible to estimate the size of this effect.

## **C. DID THE CAVP REDUCE 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 a protected individual...because of his or her citizenship status.” However, this provision does not impose new restrictions on pilot employers, but simply reiterates laws applicable to all employers, which both pilot and non-pilot employers violate to some degree. This section focuses on the question of whether the CAVP has affected the level of discrimination by employers participating in the program. 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.

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 status, that are unrelated to productivity or performance. Discrimination can occur because the employer intentionally treats members of a protected group differently than others. However, it can also occur unintentionally if employers’ actions have a disparate impact on protected group members.

There are many ways that employers might discriminate against certain groups of job applicants or employees. Discriminatory and illegal acts include asking job applicants for documentation proving identity and authorization to work; asking for specific types of documents, such as a driver’s license, Social Security card, or green card; and asking for extra documents when presented with documentation unfamiliar to the employer.<sup>12</sup> Generally, statements in job advertisements or interviews that limit jobs to U.S. citizens or permanent residents are illegal.<sup>13</sup> During job interviews, illegal questions include

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<sup>12</sup> Brett, 1998; Karabetsos, 1995.

<sup>13</sup> Brett, 1998; Karabetsos, 1995.

asking applicants if English is a second language or what their native language is.<sup>14</sup> It is also illegal to refuse to hire applicants based on the future expiration dates of work-authorization documents.<sup>15</sup> Discriminating in any way on the basis of spoken accent, facial or racial characteristics, or surname is also illegal.<sup>16</sup> Some authors have stated that asking applicants about work-authorization or immigrant status is also illegal. However, the Office of Special Counsel for Immigration-Related Unfair Employment Practices in the U.S. Department of Justice says that it is not illegal to ask the more general question, “Are you authorized to work in the United States?” Additionally, any interview questions that are not work-related may constitute grounds for charges of illegal employment discrimination.

Employers can also take actions designed to prevent employment discrimination by aggressively recruiting groups historically underrepresented in their industries. Widespread advertising of job vacancies and use of employment agencies handling a multicultural set of job applicants can increase the presence of historically excluded groups.

Employment discrimination can occur at all stages of employment, including recruitment, hiring, placement, compensation, training, evaluation, disciplinary action, treatment on the job, and dismissal. Since the CAVP procedures primarily affect recruiting, hiring, and the initial post-hiring period, this section of the report focuses on the effect of the CAVP program during these initial stages of the process.

## **2. DISCRIMINATION AND EMPLOYMENT VERIFICATION PILOT PROGRAMS**

There has not been consensus among stakeholders about the likely impact of the IIRIRA pilot programs on discrimination. On the one hand, 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. 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.<sup>17</sup> 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, according to this view, 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 CAVP could be considerable, even if employers completely follow the CAVP procedures designed to protect immigrant rights. If inaccurate

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<sup>14</sup> Brett, 1998.

<sup>15</sup> Brett, 1998.

<sup>16</sup> Brett, 1998.

<sup>17</sup> General Accounting Office, 1990.

information in the INS database results in incorrect verifications for work-authorized persons, noncitizen employees are faced with the necessity of straightening out their INS records, which could result in missed time at work or other inconveniences that their U.S. citizen coworkers do not face. Further, some work-authorized noncitizens may quit their jobs rather than contact INS, because they are afraid of INS or believe it is easier to find another job elsewhere. Even greater harm to work-authorized noncitizens is likely when employers fail to follow the pilot procedures. Furthermore, some stakeholders point out that the CAVP is clearly discriminatory, since only noncitizens are verified through the automated verification process, resulting in disparate treatment of citizens and noncitizens. Moreover, it has been argued that the additional verification step required for noncitizens increases the cost and burden to employers, providing a potential incentive for them to prefer to hire noncitizens.

### 3. FINDINGS

*There is strong evidence from the evaluation that the CAVP program increases discrimination against noncitizens.* Unlike the other two IIRIRA pilot programs, the CAVP is supposed to be used to verify only noncitizens. According to the estimates derived from the model depicted in Exhibit V-2, approximately 17 percent of the work-authorized noncitizens screened by the CAVP received tentative nonconfirmations and 12 percent of all work-authorized noncitizens received final nonconfirmations (see Exhibit V-4). Since citizens are not subject to automated verification in the CAVP, some work-authorized noncitizens, but no citizens, were subject to the inconvenience and possible additional adverse effects of receiving tentative nonconfirmation findings.

#### **Exhibit V-4: CAVP Findings for CAVP Employees Claiming on the I-9 Form to Be Work-Authorized Noncitizens, by Model-Based Estimates of Actual Work-Authorization Status**

Work-Authorization Finding Actually Returned by CAVP	Model-Based Estimates of Work-Authorization Status If All Cases Had Been Resolved					
	Work-Authorized		Unauthorized		Total	
	No.	%	No.	%	No.	%
Authorized at first stage	6,383	62.6	0	0.0	6,383	44.0
Authorized at second stage	2,056	20.2	0	0.0	2,056	14.2
Authorized at third stage (after tentative nonconfirmation)	491	4.8	0	0.0	491	3.4
Unauthorized at third stage	0	0.0	44	1.0	44	0.3
Final nonconfirmations	1,263	12.4	4,268	99.0	5,530	38.1
Total authorized	10,193	100.0	4,312	100.0	14,504	100.0

SOURCE: Estimated by the evaluation team using transaction database information, based on the assumption that 50 percent of employees are informed of a tentative nonconfirmation and that 80 percent of work-authorized employees contest a tentative nonconfirmation when notified.

***The extra burden imposed upon work-authorized noncitizen employees is, in large part, a result of problems with how INS and employers implement the CAVP.*** If INS databases were accurate and up to date, few work-authorized individuals would receive tentative nonconfirmations. When employers follow proper CAVP procedures, the employee burden should entail, at most, the need to take time off from work to visit INS.<sup>18</sup> However, when work-authorized employees receive tentative nonconfirmations and their employers fail to comply with pilot procedures, the employee burden may be substantial.

*The INS database used for verification is not up to date.* As detailed in Chapter IV, INS officials reported that the INS database is not always up to date. These problems are reflected in the above estimate that 17 percent of work-authorized noncitizens receive tentative nonconfirmations,<sup>19</sup> compared to no citizens, thus creating a discriminatory impact on work-authorized noncitizens.

*Employer violations of MOU provisions developed to protect employee rights and prevent discrimination are common.* As discussed in Chapter IV, employers often violate these provisions. The consequences of such violations include individuals being denied employment or being fired from their positions, as well as adverse actions such as denying training or suspending employment while employees straighten out their records with INS.

***Although many employers claim that the CAVP makes employers more willing to hire immigrants, there is no evidence that the interviewed employers changed their own recruiting and hiring procedures as a result of joining the CAVP program.*** Thirty-nine percent of CAVP employers interviewed on-site said that the CAVP makes employers more willing to hire immigrants, compared to 4 percent who claimed that the pilot made employers less willing. The remaining employers said that the program made employers neither more nor less willing. All respondents claiming that the program made employers more willing to hire immigrants explained that their willingness came from the increased confidence in their ability to determine the work-authorization status of these newly hired employees. However, when employers were asked whether they modified their own recruiting or hiring procedures because of the CAVP program, none of them reported changes that indicated they were more likely to recruit and/or hire immigrants because of the CAVP.

## **D. DID THE CAVP PROTECT EMPLOYEE PRIVACY AND CONFIDENTIALITY?**

### **1. BACKGROUND**

One of the intentions of the CAVP is to provide a verification system that protects the privacy and confidentiality of employees. The CAVP system was, therefore, designed to

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<sup>18</sup> According to INS, many employees are able to resolve tentative nonconfirmations by fax or telephone, which may be provided by the employer.

<sup>19</sup> The evaluation team believes that it is unrealistic to expect any database system to be completely accurate. However, the team views as excessive failure of the CAVP to electronically identify 17 percent of work-authorized noncitizens as being work-authorized.

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 INS employs to prevent unauthorized external access to its systems. This section summarizes the findings of the evaluation on privacy and confidentiality of information.

The following safeguards are built into the CAVP system to protect against possible security breaches:

***Federal privacy responsibilities.*** Federal Government safeguards protect access to INS databases by limiting their use solely to authorized INS personnel and contractors. In addition, the Federal Government processes queries only for authorized employers who signed an MOU and are identified through establishment access codes and user identification codes.

***Hardware/software.*** The CAVP software used by employers is installed on stand-alone computers, rather than networked computers, so that other personnel at the work site cannot gain access to the computer(s) through a network connection. The CAVP pilot requires employers to ensure the security of the computers they use, to prevent unauthorized access to CAVP data. The CAVP software permits employers one-way access to the INS database, and information is provided only for the fields and from records needed for employment verification.

***Passwords.*** Each employer is assigned an access code and software for installation on one computer. If additional computers are needed to run the pilot, additional access codes must be requested from INS. 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 must notify INS 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.

## 2. FINDINGS

***There is little increased risk of misuse of CAVP information by Federal employees.*** Use of the CAVP 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 INS uses to protect all of its databases continue to be in effect when INS personnel and contractors use CAVP data. These security procedures limit access to and safeguard employee and employer information provided by CAVP users.

***Most employers reported that they followed reasonable procedures to prevent unauthorized access to the database they use in the CAVP verification process.*** Most employers reported following procedures for restricting CAVP database access to authorized users. In on-site interviews, 63 percent of employers indicated that the computers used for verification are located in a room that can be locked. Ninety percent of employers said they secured their passwords, by either memorizing them (73 percent) or keeping them in a secure location (17 percent).

***The CAVP system design enabled unauthorized access to and manipulation of employee information at the employer's site.*** The evaluation team found that a moderately competent computer user could open the database on the employer computer that stores the unencrypted information from system queries on newly hired employees. Not only could this information be viewed, but evaluation testing also found that both the information input by the employer and the work-authorization status provided by the CAVP could be changed and saved in the employer's computer. Through such means, the work-authorization status on a employee's record could be altered from unauthorized to authorized, or vice versa, and a printed record with the misinformation could be placed in the employee's file as the official verification record. Although the information would be changed only on the employer's computer and not on the ASVI database or in INS records, the lack of encryption of information provides an opportunity for falsification of employer records. There is no indication, however, that such breaches occurred.<sup>20</sup>

## **E. DID THE CAVP PREVENT UNNECESSARY BURDEN AND COSTS?**

### **1. BACKGROUND**

One of the stated objectives of the CAVP program is to prevent unnecessary burden on employers. In discussing employer burden, it is also helpful to examine costs incurred by the Federal Government and employees. If the CAVP were to be continued, employers might be asked to absorb a larger share of the costs to offset some or all of the Federal and employee expenses. Further, it is necessary to consider all costs to determine whether the pilot is cost-effective.

All of the cost figures in this section must be viewed as estimates. Although much of the cost information provided by Federal officials is based on actual financial records, the evaluation team made informed but subjective judgments to allocate costs between the CAVP and other related verification programs.<sup>21</sup> The cost information provided by employers is sometimes based on actual records and sometimes on their best estimates.

### **2. EMPLOYER BURDEN AND COST**

***Employers reported that the CAVP provided an easier and more reliable verification process than the one they used prior to the CAVP.*** Almost 80 percent of employers agreed that it was easier to confirm work authorization through the CAVP, and slightly more than 80 percent reported that work authorizations obtained through the CAVP were more reliable than those obtained through the procedures they used prior to implementing the CAVP.

***The majority of employers reported that they spent less than \$100 in initial set-up costs for the CAVP and a similar amount annually for operating the system.*** Fifty-seven percent of employers said they spent less than \$100 for start-up costs, and half reported spending less than \$100 annually for operating the system. However, almost 10 percent

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<sup>20</sup> INS has corrected this problem in the MRDP system.

<sup>21</sup> For additional information about how the costs were estimated, see Appendix B.

of employers indicated that they spent \$500 or more for start-up costs, and a third reported spending \$500 or more annually for operating costs.

The most frequently mentioned specific start-up costs were for training, telephone hook-up, and computer hardware. Most operating costs were related to telephone charges, computer maintenance, wages for verification staff, and training for replacement staff. Not all costs associated with a new system are easily quantifiable. Employers also incurred indirect costs for start-up, such as reassignment of employees, additional recruitment, and delayed production.<sup>22</sup> Nearly 85 percent of the establishments reported that the indirect start-up costs were either not a burden or were only a slight burden. More than 90 percent of the employers reported that indirect costs associated with maintaining the system were either not a burden or only a slight burden.

### 3. FEDERAL GOVERNMENT COSTS

***Based on information provided by INS officials, the Federal Government spent approximately \$1.2 million on the CAVP program between January 1999 and December 2000***<sup>23</sup> (see Exhibit V-5). These costs can be broken into two broad types:

- Start-up costs, such as development of manuals and software, of approximately \$350,000
- Annual operating costs of slightly more than \$425,000 (more than \$850,000 in total)

Annual operating costs were further broken down into fixed annual costs and costs that vary with the size of the CAVP program<sup>24</sup> (see Exhibit V-6). Annual fixed costs account for most of the annual operating costs (\$343,000 of a total \$422,000). Most of these fixed costs were for INS Headquarters (approximately \$184,000) and INS field personnel (approximately \$160,000). If the CAVP had attracted more employers, the fixed costs would have been the same, but the variable costs would have increased. For example, if the CAVP had served 700 employers, fixed costs would have remained at \$343,000, while variable costs would have increased to an estimated \$477,000.

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<sup>22</sup> Delayed production occurs when employers have to slow production for some reason. The CAVP could delay production if, for example, an employer was forced to fire someone because of a final nonconfirmation and production slowed while a replacement was sought.

<sup>23</sup> Many expenses are estimated, and judgments were made about allocation of certain expenses among the various pilot programs and between the pilots and other programs. In making this allocation, the evaluation team decided not to include any systems development work that was also necessary to support verification of eligibility for government benefit programs. This systems development work would have been required with or without the pilot programs. Among these excluded costs were development costs for the new Verification Information System (VIS) (\$6.25 million) and the web access method of employment verification (\$510,000). VIS and web access comprise the new equipment and software platform that will support Systematic Alien Verification for Entitlements (SAVE) and employment verification pilot processing in the future.

<sup>24</sup> This breakdown is an important first step in understanding the likely long-term costs of employment verification if the CAVP program were to be expanded to include additional employers.

**Exhibit V-5: Estimates of CAVP Pilot Costs to the Federal Government, January 1999 to December 2000 (in thousands)**

<b>Costs</b>	<b>Total Costs</b>	<b>Annual Costs</b>
Start-up costs		
CAVP software and system development	\$157	
Development of computer-based tutorials	34	
Development of CAVP manuals and pilot notices	10	
Publicity campaign	97	
Computer equipment – Headquarters and Immigration Status Verifiers	53	
<b>Total</b>	<b>\$350</b>	
Operating costs		
INS Headquarters salaries	\$416	\$208
INS field personnel	418	209
Verification query costs	6	3
Production of computer disks, manuals, and pilot notices	8	4
Systems operation and maintenance	4	2
<b>Total</b>	<b>\$851</b>	<b>\$425</b>
<b>Grand Total</b>	<b>\$1,201</b>	

NOTE: Numbers in this table were rounded to the nearest \$1,000 after calculations were made, potentially creating the appearance of minor miscalculations.

SOURCE: Estimates prepared by the evaluation team, derived from information provided by INS.

**Exhibit V-6: Breakdown of Total Annual Operating Costs**

	<b>Cost Per Unit</b>	<b>Number of Units</b>	<b>Annual Costs (in thousands)</b>
Fixed costs			\$346
Variable costs			
Proportional to the number of INS implementing offices	\$1,033	25	26
Proportional to the number of INS secondary referrals	6.39	3,609	23
Proportional to the number of new establishments	250	89	22
Proportional to the number of participating establishments	53	91	5
Proportional to the number of queries	0.29	8,686	3
<b>Total</b>			<b>\$79</b>
<b>Grand Total</b>			<b>\$425</b>

NOTE: Numbers in this table were rounded to the nearest \$1,000 after calculations were made, potentially creating the appearance of minor miscalculations.

SOURCE: Estimates prepared by the evaluation team, derived from information provided by INS.



***Annual Federal variable operating costs during the first 2 years of CAVP operation were estimated to be approximately \$79,000 a year.*** Those expenses that were assumed to be proportional to the number of INS offices implementing the program accounted for approximately \$25,000 of these expenses (a little more than \$1,000 per office) (see Exhibit V-6). Costs that vary with the number of INS secondary referrals accounted for \$23,000 (\$6.39 per referral). The third largest cost was for costs proportional to the number of new establishments (\$22,000 total and \$250 per new employer). The estimated cost, assumed to be proportional to the total number of employers using the system during the year, was approximately \$5,000, with a per-establishment estimated cost of \$53. The smallest variable operating cost was for those costs proportional to the number of queries. The cost for these queries was \$3,000 in total, or \$0.29 per query.

#### **4. EMPLOYEE BURDEN AND COST**

Since the evaluation team did not interview CAVP employees, it is not possible to develop a dollar estimate of employee costs for the CAVP. However, on the basis of information from the Basic Pilot employee survey, combined with CAVP transaction database information and a knowledge of the CAVP program, it is possible to make a number of statements with reasonable confidence about the costs incurred by work-authorized noncitizens.<sup>25</sup>

***Most work-authorized employees screened by the CAVP incur no costs attributable to the pilot.*** The evaluation team estimated that, based on the model, 83 percent of the work-authorized cases verified through the CAVP by employers were determined to be “employment authorized” at either the first or second stage and, therefore, incurred no costs for employees (Exhibit V-5). The CAVP process does not require any action from the employee in these cases.

***The costs of many work-authorized employees who initially received tentative nonconfirmations were minimal, but others were subject to adverse actions on the part of their employers.*** The evaluation team estimates that approximately 17 percent of work-authorized noncitizens received tentative nonconfirmations. According to ISVs, many employees who receive tentative nonconfirmations are able to resolve the problem by fax and/or telephone. These employees (or their employers) incurred only nominal costs in clearing up their work-authorization problems. Some employees visited an INS office to resolve their problems, potentially incurring expenses for travel, lost work time, and possibly even legal fees. Furthermore, some work-authorized employees incurred substantial costs as a result of being denied employment or having other adverse actions taken against them by their employers.<sup>26</sup>

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<sup>25</sup> Non-work-authorized employees also incur costs; however, these costs are the result of the CAVP operating as intended.

<sup>26</sup> See Chapter IV for a discussion of the types of adverse actions that employers reported.

## 5. COMPARISON OF CAVP AND BASIC PILOT BURDENS AND COSTS

One of the reasons for considering the CAVP program as an alternative to automated programs that check both citizens and noncitizens is the possibility that the CAVP would result in sufficient cost savings to make it more cost-effective than the other IIRIRA pilot programs. This hypothesis is based on the fact that the CAVP verifies only those employees attesting to being noncitizens, thus eliminating the costs associated with screening a sizeable part of the population that is relatively unlikely to contain individuals without work authorization. However, given the greater effectiveness of the Basic Pilot in identifying employees without work authorization, it is important to determine whether any cost savings of the CAVP in comparison to the Basic Pilot program are large enough to compensate for the differences in the effectiveness of the two programs.<sup>27</sup> This subsection, therefore, compares the Federal, employer, and employee costs associated with the two programs.

### a. EMPLOYER BURDEN AND COST

**Employers report considerably lower financial costs for the CAVP than for the Basic Pilot program.** The mean annual operating costs reported by CAVP employers were \$1,100, compared to \$1,800 reported by the Basic Pilot program employers; this difference is not unexpected, since CAVP employers only need to input information for noncitizens. However, it is possible that some of the cost differences between the programs are attributable to differences other than the programs themselves. For example, in the 2 years between the Basic Pilot and CAVP implementations, computers have become more reasonably priced and have become available to more employers. Further, between the time of the Basic Pilot and CAVP implementations, INS made system improvements that may have made it less costly for employers to implement the system. Finally, CAVP employers had a lower proportion of noncitizens in their workforces than did Basic Pilot employers (15 percent versus 27 percent).

**CAVP employers were more likely than Basic Pilot employers to view the pilot program as burdensome.** Approximately two-thirds of CAVP employers rated automated verification procedures as at least somewhat burdensome, compared to 43 percent of Basic Pilot employers. Since approximately two-thirds of both groups of employers rated the original Form I-9 process<sup>28</sup> as not at all burdensome, it is reasonable to assume that the difference is attributable to differences between the two pilot programs.

**Most CAVP employers reported that a program using an automated system for all newly hired employees would be “better” than the CAVP program.** More than 70 percent of CAVP employers responding to the on-site survey reported that a program such as the Basic Pilot program that confirms all new hires would be better than the CAVP. This overall evaluation of the CAVP program relative to the Basic Pilot presumably indicates that employers see the Basic Pilot as being more effective than the

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<sup>27</sup> The CAVP and MRDP programs will be compared after the MRDP evaluation is complete.

<sup>28</sup> The Form I-9 process was used as a baseline for this analysis.

CAVP. This view is consistent with the above observation that the Basic Pilot program is almost twice as likely as the CAVP to detect employees without valid documents.

***b. FEDERAL COSTS***

Since the Basic Pilot program was significantly larger than the CAVP and was implemented in different States than the CAVP, a direct comparison of the cost estimates for the two pilots would not be meaningful. The evaluation team has, therefore, estimated Federal cost savings that would result under three scenarios (Exhibit V-7). In the first scenario, the evaluation team compared the costs for the CAVP reported previously with an estimate of what the Basic Pilot program would have cost if it had been implemented with the CAVP employers. In the second scenario, the Basic Pilot program costs reported in the Basic Pilot report were compared with an estimate of what the CAVP program would have cost if it had been implemented with the Basic Pilot employers.<sup>29</sup> The final scenario compares the estimates of what it would cost to implement the Basic Pilot and CAVP programs with all employers in the United States.

For comparison purposes, the following assumptions were made:<sup>30</sup>

- Both programs were implemented at the same time, so that the inflation adjustment used in estimating CAVP costs is unnecessary.
- The following cost categories were assumed to be the same for the two programs when implemented for the same set of pilot employers: costs that vary with number of establishments, the number of new establishments, and the number of INS offices; and fixed costs for INS headquarters, INS field staff, verification queries, computer disks, systems, and initial Federal implementation.
- The number of queries associated with the Basic Pilot program is assumed to be proportional to the number of employees in participating establishments.
- The number of queries associated with the CAVP program, INS secondary verifications, and the number of SSA referrals are assumed to be proportional to the number of new noncitizen employees.<sup>31</sup>

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<sup>29</sup> The cost estimates used for the Basic Pilot program differ slightly from those used in the Basic Pilot report, because new cost-related information was obtained.

<sup>30</sup> These assumptions differ somewhat from those used earlier in the chapter, to ensure comparability in the savings estimates.

<sup>31</sup> The evaluation team also examined an alternative model in which the number of SSA referrals was considered proportional to the total number of employees. Since the results of the models were essentially the same (i.e., in the 3 to 4 percent range), the evaluation team did not develop a more sophisticated model based on separate referral rates for U.S. citizens and noncitizens.

**Exhibit V-7: Summary of Cost Savings for Implementing the CAVP Program Rather Than the Basic Pilot Program Under Alternative Size Assumptions**

Employers	Numbers of Units		Cost Per Unit		Total Costs		Cost Savings of CAVP	
	CAVP	Basic Pilot	CAVP	Basic Pilot	CAVP	Basic Pilot	Dollars	% of Total Basic Pilot Cost
CAVP employers								
Variable costs								
Queries	8,763	66,408	\$0	\$0	\$2,454	\$18,594	\$16,141	0.8
INS – Secondary verification	3,609	798	6.19	6.19	22,342	4,942	-17,400	-0.9
SSA – Contested	0	687	0.00	10.08	0	6,923	6,923	0.4
SSA offices	0	200	0.00	100.00	0	20,000	20,000	1.0
Fixed costs								
SSA					0	50,000	50,000	2.5
<b>Total costs</b>					<b>\$24,795</b>	<b>\$100,460</b>	<b>\$75,665</b>	<b>3.8</b>
Basic Pilot employers								
Variable costs								
Queries	83,343	350,898	0.28	0.28	23,336	98,251	74,915	3.2
INS – Secondary verification	34,329	7,594	6.19	6.19	212,495	47,005	-165,490	-7.1
SSA – Contested	0	6,532	0.00	10.08	0	65,850	65,850	2.8
SSA offices	0	300	0.00	100.00	0	30,000	30,000	1.3
Fixed costs								
SSA					0	50,000	50,000	2.2
<b>Total costs</b>					<b>\$235,831</b>	<b>\$291,106</b>	<b>\$55,275</b>	<b>2.4</b>
All employers in Nation								
Variable costs								
Queries	2,678,090	40,097,383	0.28	0.28	749,865	11,227,267	10,477,402	6.8
INS – Secondary verification	1,103,103	244,012	6.19	6.19	6,828,205	1,510,432	-5,317,773	-3.4
SSA – Contested	0	209,901	0.00	10.08	0	2,115,982	2,115,982	1.4
SSA offices	0	1,340	0.00	100.00	0	134,000	134,000	0.1
Fixed costs								
SSA					0	50,000	50,000	0.0
<b>Total costs</b>					<b>\$7,578,070</b>	<b>\$15,037,681</b>	<b>\$7,459,611</b>	<b>4.8</b>

NOTE: Costs are shown only for costs that differ between the Basic Pilot program and the CAVP. Costs assumed to be the same for the CAVP and the Basic Pilot of the same size are those varying with number of establishments, number of new establishments, number of INS offices, and fixed costs for INS Headquarters, INS field staff, verification queries, computer disks, and systems.

SOURCE: Estimated by the evaluation team from information provided by INS and SSA.

***The CAVP program results in fairly small savings in Federal annual operating costs over the costs of the Basic Pilot program.*** The evaluation team estimated that if the Basic Pilot program had been implemented with CAVP employers, the Basic Pilot program would have had annual operating costs that were \$76,000 more than the CAVP costs. This savings represents 4 percent of the total Basic Pilot cost for this size program (see Exhibit V-7). If the CAVP program had been implemented with Basic Pilot employers, the estimated savings would have been approximately \$55,000 (2 percent of the Basic Pilot costs for those employers). A mandatory national CAVP program would cost approximately \$7.5 million less annually than a similar Basic Pilot program (a 5 percent cost savings).<sup>32</sup>

*The cost savings of implementing the CAVP rather than the Basic Pilot program are attributable to the elimination of Social Security costs and the reduction in the total number of queries required by the CAVP in comparison to the Basic Pilot program.* Since SSA is not involved in the CAVP program, both fixed and variable costs for SSA are eliminated in the CAVP program. Further, since the CAVP requires that only noncitizens be screened, the number of queries is considerably lower for the CAVP program than for the Basic Pilot program, thereby saving processing costs.

The primary additional costs for the CAVP are associated with cases that cannot be verified automatically. These cases need to be reviewed by ISVs, a process that is considerably more costly than automated verification. Under the Basic Pilot program, SSA screens all noncitizens first. If the SSA database indicates that the noncitizen has a permanent work-authorization status (e.g., the noncitizen is a lawful permanent resident, refugee, or asylee), the case is never sent to the INS database. Thus, some noncitizens who received tentative nonconfirmations from the CAVP because of inaccurate INS records would have been confirmed automatically by SSA in the Basic Pilot program.

***c. EMPLOYEE BURDEN AND COST***

***The total number of tentative nonconfirmations is lower in the CAVP than in the Basic Pilot program, indicating that total employee costs are probably lower in the CAVP.***

Although it is not possible to compare the actual CAVP and Basic Pilot program employee costs, it is possible to compare the number of tentative nonconfirmations in the two programs. Since employees incur costs only when they receive tentative nonconfirmations, the number of such outcomes can be considered a rough indicator of the relative employee costs associated with the two programs. The number of tentative nonconfirmations observed in the Basic Pilot was approximately 29,000 annually, compared with an estimated 26,000 tentative nonconfirmation cases annually if the CAVP had been implemented with the Basic Pilot population. The difference in the

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<sup>32</sup> These numbers should be viewed as providing a rough idea of the cost savings entailed in implementing the CAVP instead of the Basic Pilot program. These estimates are based on a number of assumptions that could not be fully documented by the evaluation team. Appendix B provides additional information on how the estimates were made.

number of tentative nonconfirmations between the two programs would be expected to be greater for populations with lower percentages of noncitizens.<sup>33</sup> However, without information on the costs of employees with SSA tentative nonconfirmations versus those with INS tentative nonconfirmations, this must be considered a rough indicator of the relative employee costs for the programs.

## **F. CONCLUSIONS**

Compared to the Basic Pilot program, the primary advantage of the CAVP is that program costs are lower. However, as summarized below, this chapter has documented a number of major problems with the CAVP program, as implemented.

- Although the CAVP provides employers with a tool for identifying employees who have presented counterfeit or altered documents indicating that they are work-authorized, it is less effective than the Basic Pilot in curtailing the fraudulent attestation of U.S. citizenship.
- The CAVP leads to increased discrimination against work-authorized noncitizens, because only noncitizens are verified and are therefore subject to the inconvenience of receiving tentative nonconfirmations.
- Even though employers have used security procedures to limit access by unauthorized users, the CAVP does not prevent users from altering the database on an employer's computer and producing a falsified report based on the altered data.
- Although employers report lower costs for the CAVP than the Basic Pilot program, CAVP employers are more likely than Basic Pilot employers to report that the pilot program is at least somewhat burdensome. Furthermore, most CAVP employers believe that an automated system for verifying citizens as well as noncitizens would be better than the CAVP.
- In sum, the CAVP program is less effective than the Basic Pilot program at detecting unauthorized employment, preventing discrimination, and reducing employer burden. Further, the cost savings of the CAVP are small in comparison to the differences in the programs' ability to detect fraudulent attestation of work authorization and to prevent discrimination. Additionally, employers appear to prefer a program that verifies all newly hired employees as opposed to one that checks only noncitizens.

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<sup>33</sup> See Appendix B for a discussion of how this estimate was made.



## **CHAPTER VI. CONSIDERATIONS AND RECOMMENDATIONS FOR THE FUTURE**

### **A. INTRODUCTION**

In establishing the Citizen Attestation Verification Pilot (CAVP), the language of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) called for a pilot design that is distinguished from the other two pilots in two key ways. First, electronic verification is conducted only for newly hired noncitizen employees rather than all newly hired employees. Second, CAVP employees attesting to U.S. citizenship, which confers automatic work authorization, do not need to provide proof of citizenship in addition to proving their identity. In addition to the legislative differences, the CAVP is the only pilot in which noncitizen employees are not electronically verified through the Social Security Administration (SSA).

Chapters IV and V indicated that while the CAVP received generally favorable ratings from its users, flaws in the program design and implementation made it a relatively ineffective pilot program. This chapter focuses on how some of the problems detected during the evaluation might be remedied in future electronic employment verification programs.

This chapter is organized around the primary goals of the pilot programs: deterring unauthorized employment, reducing discrimination, protecting privacy, and avoiding unnecessary burden on employers. However, some recommended improvements would affect more than one of these goals. In this situation, the report lists the recommendation under one of the goals and cross-references it elsewhere.

### **B. DETERRING UNAUTHORIZED EMPLOYMENT**

Although the CAVP is likely to reduce some types of unauthorized employment among pilot employers, it has major weaknesses in terms of its ability to detect fraudulent attestation of U.S. citizenship. A number of questions were also raised in the evaluation about the CAVP's ability to detect identity fraud among those attesting to being work-authorized noncitizens.

#### **1. PREVENTING FRAUDULENT ATTESTATION OF U.S. CITIZENSHIP**

Fraudulent attestation of U.S. citizenship is harder to detect under the CAVP program than under either the Basic Pilot program or the paper Form I-9 employment verification process. The major reason for this weakness in the CAVP is the IIRIRA provision that exempts CAVP employees who attest to U.S. citizenship from proving their citizenship, as required by the other programs.

Permitting employees attesting to U.S. citizenship to show only one document is not a problem if the document verifies citizenship status as well as identity, as is currently the case for the U.S. passport. However, requiring that the document verify both citizenship



and identity was not a criterion stated in the legislation and was not considered by INS in its procedures for certifying States for inclusion in the pilot. Furthermore, there are no States that verify citizenship as part of the process for obtaining State-issued driver's licenses or nondriver identification cards and then annotate that information on the card issued. Thus, since the driver's license is the key document for the CAVP and does not, in any case, provide proof of both identity and citizenship, noncitizens without work authorization, or with work authorization that has expired, can readily avoid detection under the CAVP by attesting to U.S. citizenship and presenting a legitimately issued driver's license. Additionally, such a person could present a counterfeit, borrowed, or stolen license.

***Recommendation 1: To prevent fraudulent attestation of citizenship, any future automated pilot programs that exempt a group of individuals from automated verification should, at a minimum, require that they adhere to the paper Form I-9 verification and document review process, in which they must prove both identity and citizenship status.***

## **2. PREVENTING IDENTITY FRAUD**

One of the major limitations of both the paper Form I-9 process and the pilot programs prior to the CAVP is their vulnerability to identity fraud. From a theoretical perspective, the best way to reduce identity fraud would be to limit identification documents to those that are both resistant to counterfeiting and have stringent procedures for ensuring the identity of persons issued the documents. Ideally, these documents would also be linked to their owners through a biometric identifier, such as a fingerprint, that could be verified by employers. However, there are few, if any, commonly available identity documents that meet such high standards, and creating new documents adhering to the standards would be, at best, a major challenge.

Although no States currently issue documents that meet the ideal criteria, it should be possible to design a program that would represent an improvement over earlier employment verification programs in terms of its ability to detect identity fraud. The evaluation team believes that two serious flaws in the CAVP legislative design preclude it from being a reasonable test of such a program: (1) a lack of a clear definition of what constitutes a secure driver's license or other identity document and (2) the absence of provisions for verifying the identity of individuals not presenting the requisite secure documents. Without these provisions, individuals without work authorization remain free to use non-secure documents in the employment verification process and successfully remain employed. These two weaknesses are discussed below.

### ***a. CLARIFICATION OF THE DEFINITION OF SECURE IDENTITY DOCUMENTS***

The IIRIRA legislation does not provide INS with clear guidelines on the security requirements that make State-issued driver's licenses and nondriver identification cards adequate for CAVP purposes. Section 403(b)(2)(A)(ii) of IIRIRA simply states that these documents must be "...issued through application and issuance procedures, which makes such document sufficiently resistant to counterfeiting, tampering, and fraudulent

use that it is a reliable means of identification for purposes of this section.” Without a definition of what constitutes “a reliable means of identification,” the legislation is subject to a variety of interpretations. Furthermore, no clarification of this section of the law was provided at the legislative or agency level, which left the interpretation and decision up to program implementers. As a result, not all of the States participating in the CAVP issued driver’s license documents that met reasonable security standards.

In the future, Federal evaluation of security features should go beyond asking State Department of Motor Vehicles offices whether they include a photograph and other security features on their licenses. At a minimum, experts in the detection and prevention of counterfeit fraud should evaluate the proposed identification cards. Attention should also be paid to the procedures used in issuing driver’s licenses. If driver’s licenses are based on a weak validation process, individuals can easily obtain them using counterfeit, borrowed, or stolen “breeder documents.”

***Recommendation 2: If future pilot programs are designed to test the impact of implementing a pilot program in a State(s) with highly secure driver’s licenses, there should be expert and explicit guidance on what constitutes a secure document.***

***b. REVISING THE PROCESS FOR EMPLOYEES NOT PRESENTING SECURE DOCUMENTS***

Neither IIRIRA nor the INS Memorandum of Understanding (MOU) requires individuals attesting to U.S. citizenship to present identity documents certified as meeting the CAVP program security standards. Since workers often cross State borders to obtain employment, such a requirement would be impractical unless all States issued secure documents to both drivers and nondrivers. This problem was exacerbated by the inclusion in the CAVP of States that had not been certified to participate.<sup>1</sup> A reasonable alternative is to require that employers use more stringent verification procedures for those employees who do not present the requisite secure documents for employment verification purposes.

***Recommendation 3: Any future program limited to States with secure identity documents should either require that the specified secure documents be used in the employment verification process or, more practically, require additional verification steps for workers who do not use the specified secure documents.***

**C. DECREASING DISCRIMINATION**

The CAVP has fallen far short of the goal of reducing discrimination. There are three major reasons for this failure: a poor program design, use of an INS database that is not up to date, and the failure of some employers to comply with required CAVP procedures.

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<sup>1</sup> When a multi-establishment company has an establishment participating in one of the pilot States, it is permitted to enroll establishments outside of the State in the pilot program.

## 1. IMPROVING PROGRAM DESIGN

The CAVP is inherently discriminatory, since individuals attesting to U.S. citizenship are treated differently from noncitizens in the verification process. This situation is exacerbated by the lack of a clear rationale for different treatment and the fact that it is specifically contrary to the tenets of the Commission on Immigration Reform and other groups studying this issue. Since citizens are exempt from the automated screening procedures, only noncitizens can receive potentially burdensome tentative nonconfirmations, resulting in the disparate treatment of work-authorized noncitizens. Furthermore, when the Federal Government implements a program that is discriminatory on its face, it is implicitly condoning discrimination against noncitizens.

***Recommendation 4: Any future pilot programs should not rely on the employee's attestation of U.S. citizenship as the sole means of determining who should be verified by the automated pilot system. An example of an approach that would be less discriminatory is to exempt from automated verification all citizens and noncitizens proving both work-authorization status and identity with documents meeting some specified level of security.***

## 2. IMPROVING DATA ACCURACY

Like the other electronic employment verification programs, the CAVP results in more discrimination than necessary because of INS's problems in keeping its verification database up to date. The evaluation team estimated that approximately 17 percent of work-authorized noncitizens verified by the CAVP received tentative nonconfirmations during the verification process. Although no database can be expected to be completely accurate, the evaluation team believes that this rate is not acceptable and that it would drop significantly if INS databases used in verification were more accurate, as required by IIRIRA.

The INS database problem adversely affected the CAVP more than the other pilot programs because the CAVP, as implemented, does not check SSA records. Thus, some noncitizen cases that SSA would have confirmed in the other pilots received tentative nonconfirmations in the CAVP. Even though INS has taken steps to improve the timeliness of data, further improvements are needed to achieve the level of accuracy that will support an electronic verification system that is not discriminatory. INS will have to make data entry and system improvements an operational priority to minimize the time between field office action on a person's status and availability of that information on the Alien Status Verification Index (ASVI) database.

***Recommendation 5: To avoid discrimination, INS must minimize the time lag between a person's arrival in the United States or change of status and the availability of that information on the ASVI database. These changes must be undertaken before considering implementation of a larger scale electronic employment verification system. (See also Sections D and B3.)***

### 3. PROTECTING EMPLOYEES' DUE PROCESS RIGHTS

The CAVP and other pilot programs include procedures to protect the rights of work-authorized individuals who receive tentative nonconfirmations. Employers are required to give employees receiving tentative nonconfirmation findings information about the finding and the procedures to follow if they wish to contest. Furthermore, when employees choose to contest, employers are not permitted to take adverse actions against them, such as cutting their pay or postponing training. However, employers do not consistently follow these procedures. In this situation, the discriminatory effect of tentative nonconfirmations on work-authorized noncitizens is more severe than if these due process rights had been observed.

INS could take a number of actions in future programs to either decrease the frequency of employer noncompliance or mitigate its negative impacts. One major action, discussed in Section B2, is to improve the accuracy of the INS database. However, there are practical limits that prevent any database from being totally accurate. It is, therefore, necessary to consider additional actions aimed at reducing employer noncompliance or reducing the effects of noncompliance on employees.

First, INS could work on further educating employers about their responsibilities to protect employee rights under the pilot program. This is especially important when there has been turnover among staff members responsible for employment verification.

Second, INS could monitor employers to ensure that they follow proper procedures and thus protect employees' due process rights. This monitoring should be facilitated by adoption of the management information reports recommended in Section E3. However, additional monitoring actions, such as reviews of Form I-9 files, could be conducted.

Third, the system currently relies solely upon employers to give employees crucial information about their work-authorization status and rights. To augment this procedure, it would be desirable for the system to generate a letter that would be mailed directly to the employee.

All three of these possible program modifications have costs that could be considerable. There are also other possible drawbacks to implementing them. For example, implementation of a monitoring system that includes reviews might well create such negative reactions among employers that they would not volunteer for the program. Similarly, to send letters directly to employees, employers would need to input employee address information into the pilot database.

***Recommendation 6: INS should investigate alternative ways of ensuring employer compliance with CAVP procedures and ways of decreasing the negative impact of noncompliance on employees, including better employer education, monitoring of employer compliance with CAVP procedures, and direct notification of employees.***

## **D. PROTECTING EMPLOYEE PRIVACY AND CONFIDENTIALITY**

For the most part, the privacy of CAVP employees is well protected by the Federal Government. However, some additional steps could be taken to further safeguard the security of the pilot system. Most importantly, although INS has taken some steps to modify the system software resident on employers' computers in response to concerns raised in the Basic Pilot study, the evaluation team found that the CAVP system continues to be vulnerable to access by a person with intermediate computer skills. This access is possible because the CAVP database is not encrypted and uses database software that is commonly available.

*Recommendation 7: The database resident on the employer's PC should be encrypted in the future, so it cannot be altered.*

## **E. ENSURING THAT PROGRAM COSTS AND BURDENS ARE NOT EXCESSIVE**

One of the goals for the CAVP program was "to make the hiring process as easy and pitfall-free as possible for citizens and their employers." Although neither the 1996 legislation establishing the pilot programs nor the conference report explicitly states that Federal costs should be minimized, it is reasonable to expect any Federal program to be as cost-effective as possible.

Sections B and C made recommendations for ways of decreasing pilot discrimination and improving the ability of electronic employment verification programs to prevent unauthorized employment. These improvements would increase the benefits of the system. Furthermore, decreasing the number of tentative nonconfirmations issued to work-authorized noncitizens would decrease the workload of employers, employees, and the Federal Government, because these are the most costly cases.

Measures discussed in the following subsections focus on operational ways of making the pilot more efficient. The following topics are discussed: making the system software more user friendly, improving training and technical support, and providing more management information reports to employers and the Federal Government.

### **1. MAKING THE SYSTEM SOFTWARE MORE USER FRIENDLY**

The CAVP system was developed from a DOS system that was upgraded, and, as such, it is not sufficiently user friendly. It also lacks adequate edit checking and other features that would improve system performance by preventing, detecting, and anticipating common data entry errors. In the on-site survey, employers reported that tentative nonconfirmations are often generated because of simple data entry errors. Knowing this, software designers should apply technology and software solutions that prompt users to check data inconsistencies and that reject data that are outside acceptable parameters, such as dates like February 30 and June 31.

Employers noted that errors can come from more than one source: “[Employees] could possibly have written down the wrong birthdate or Social Security number, or we could have made a mistake.” When verification is not achieved with the initial information entered, the system could request that the employer and employee check key data fields. The system could also identify the field(s) most likely to have data input errors. For example, if the employee information other than date of birth is consistent with INS information, the employer could be instructed to verify the date of birth.

In developing a more user-friendly system, INS should make using the system as intuitive as possible, so that users will need a minimal amount of formal instruction. This will help to minimize the training costs of employers and INS staff and should reduce employer data entry errors.

INS is moving toward an Internet-based system that it expects to be more user friendly for the benefit programs operated by Systematic Alien Verification for Entitlements (SAVE). This option should also be explored in designing any future electronic employment verification programs. This method would eliminate set-up, modem, and compatibility requirements that have been a problem for many employers. An Internet-based operating system should incorporate edit-checking features.

***Recommendation 8: CAVP system software needs to be enhanced with improved editing and other features to make it more user friendly. As INS develops an Internet-based verification system, these enhancements should be implemented as part of any employment verification system.***

## **2. IMPROVING TRAINING AND TECHNICAL SUPPORT**

Developing a user-friendly system would decrease the need for user training and technical assistance; however, it would not eliminate these needs entirely. Although most employers reported that they were satisfied with INS training materials and technical assistance, a number of complaints were voiced about these services. Furthermore, many employers reported that they had confronted technical difficulties when installing and using the CAVP system. It is likely that at least some of these problems could have been avoided or ameliorated by better training materials and technical assistance.

INS reports that it plans some improvements to the instruction manual. A technical appendix on hardware, software, and compatibility issues could be developed to instruct technical personnel on modem installation and the resolution of other technical problems that employers frequently cannot manage on their own. The training materials should also incorporate frequently asked questions reported by customer service and technical support staff, which would decrease the amount of time needed for responding to common problems. Such improvements might also increase employer compliance when using the system by reducing mistakes made unwittingly when employers lack a clear understanding of procedures.

In the future, Internet approaches may solve a range of problems that employers had with the current CAVP system. Internet-based access to technical information and to educational and training materials could be substituted for traditional types of technical

support. Web pages can be designed to be user friendly and are also more easily updated and distributed than hard-copy materials. Such technical support could include electronic reference manuals and frequently asked questions. In addition, the ability to send a question via e-mail could help employers obtain technical support. While the availability of competent technical support is essential to the successful operation of any system, some of the technical improvements to the system software suggested above should alleviate much of the need for technical support.

***Recommendation 9: In future electronic verification programs, training materials need to provide more detail, especially on technical matters associated with system set-up and operation.***

***Recommendation 10: The technical requirements for future electronic verification programs should be simplified and made more user friendly, and technical support should be available to resolve problems that arise. These services should be incorporated into a new system.***

### **3. IMPROVING MANAGEMENT INFORMATION REPORTS**

The CAVP could be made more efficient by designing and implementing management information reports of interest to employers and the Federal Government. For example, pilot program managers should evaluate regular management reports that identify the types of technical problems reported to technical support staff. These reports should then be used to remedy systemic problems. Additional reports should be generated from the transaction database to monitor system use, outcomes, and irregularities, such as the frequent omission of information in data fields or query dates that are earlier than hire dates. These reports should be used to develop program improvements and to monitor employers' compliance with pilot requirements.

System monitoring reports should also provide employers with feedback on their performance. For example, INS should provide activity reports that track employer use of the system and final verification information for individual employees. These reports would allow employers to self-monitor and improve their compliance with pilot requirements.

Additionally, employers often fail to complete all data entry steps during the final stages of employee verifications, especially entry of referral and closure codes. The current system allows employers to circumvent this requirement. There are many reasons that this may occur. The absence of a referral code may be inadvertent or indicate that the employer was not certain of the appropriate next step in verifying the work authorization of an employee. However, it may indicate that the employer did not provide the employee with an opportunity to contest a tentative nonconfirmation finding. It is also possible that some employers omitted this step because the available closure codes did not seem relevant to their situation.<sup>2</sup>

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<sup>2</sup> An example of a situation that lacks a code is when employees are terminated because they decide not to contest tentative nonconfirmations.

An improved system should require the employer to enter codes for all tentative nonconfirmation cases, indicating whether the employee was informed and, if so, whether the employee wants to contest the finding. Improved closure codes, developed with employer cooperation, should also be required. Not only would such a system provide better information for evaluation and monitoring, it would ensure that employers know the steps that they should be following during the process.

***Recommendation 11: INS should implement quality control reports and monitoring mechanisms to provide INS and employers with a clearer picture of how well the system is operating. As part of this process, INS should revise its requirements for employer data input in order to make the reports more useful.***

#### **4. REDESIGNING THE WAY DATABASE CHECKING IS DONE**

The evaluation team believes that it is possible to redesign the database checking procedures used in the IIRIRA pilots to make the electronic verification system more efficient. First, the ASVI database used in the automated employment verification process does not capture all information available in INS databases that may be needed to verify work authorization. When ASVI data do not indicate that the person is work-authorized, Immigration Status Verifiers (ISVs) manually check other INS databases that may have information not contained in the ASVI database. It should be possible to design the system to do the additional database checks automatically, thus reducing the total amount of time needed for ISV review.

This evaluation found merit in checking both SSA and INS information for all employees who are verified electronically. First, the evaluation found that if noncitizen employees had been verified against the SSA database prior to being verified against the INS database, as in the other IIRIRA pilot programs, many fewer cases would have needed manual ISV review. Second, it was also observed that some cases that would have received tentative nonconfirmations from SSA if the Basic Pilot procedures had been followed could have been electronically verified by INS. This suggests that electronically checking noncitizen employees against both SSA and INS databases prior to issuing a tentative nonconfirmation might be cost-effective and might also reduce discrimination. Additional work is necessary to determine whether these procedures would be cost-effective.

***Recommendation 12: Future electronic verification programs should follow the Basic Pilot procedure of checking all cases that are electronically verified against the SSA database prior to checking them against the ASVI database.***

## **F. CONCLUSIONS AND RECOMMENDATIONS**

The major conclusions of this report are summarized below.

- Compared with the paper Form I-9 process, the CAVP appears to make it more difficult for individuals without work authorization to obtain employment at participating employers. However, the CAVP is considerably less effective than the Basic Pilot program in this regard. Noncitizens fraudulently claiming to be



U.S. citizens are more likely to be detected by the Basic Pilot program than the CAVP, because the CAVP does not electronically verify employees who attest to U.S. citizenship, and because of the weakened documentation requirements for those employees attesting to U.S. citizenship.

- The CAVP program clearly discriminates against noncitizens. Since only noncitizens receive tentative nonconfirmations, only noncitizen employees bear any program burdens that may result when employers take adverse actions against them because of tentative nonconfirmation findings, such as cutting their pay, not hiring them, or firing them. Moreover, since the CAVP requires extra work when noncitizen employees are hired, it creates an incentive for employers to hire persons they believe are U.S. citizens, for whom the electronic verification process is unnecessary.
- As expected, the CAVP is less costly for employers, citizens, and the Federal Government than the Basic Pilot program would be if both pilots were implemented with the same group of employers. However, the cost savings of the CAVP are quite modest in comparison to its flaws.

The major recommendations of this report are summarized below.

- The CAVP needs to reduce the lag time between modification of an individual's work-authorization status and when the changed status is entered into the ASVI database, in order to minimize the number of work-authorized individuals receiving tentative nonconfirmations.
- INS should give serious consideration to ways that employer compliance with policies and procedures can be increased and ways that the adverse effects of employer failure to comply can be decreased, such as improved employer education, monitoring of employer compliance, and direct notification of employees.
- The problems inherent in the design of the CAVP, the decreased effectiveness of the CAVP in preventing the employment of individuals without work authorization, and its discriminatory nature are not justified by the modest cost savings of the CAVP in comparison to the Basic Pilot program. The evaluation team, therefore, recommends that the CAVP be discontinued as soon as possible.

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## GLOSSARY

Term	Definition
<b>Alien</b>	Any person who is not a citizen or a national of the United States. Because the term is found objectionable by some people, it is not generally used in this report.
<b>Alien Number</b>	A unique identification number INS assigns to aliens (noncitizens) when any one of several INS actions occurs that results in the creation of a file on or issuance of secure documentation for the person. Such actions include admission as a permanent resident, asylee, or refugee and issuance of an employment authorization document.
<b>Alien Status Verification Index (ASVI)</b>	An INS database containing information necessary to confirm the immigration and work-authorization status of noncitizens. The database is an extract of the information in the comprehensive INS Central Index System and, for some users, the Nonimmigrant Information System.
<b>Authorized worker</b>	An individual who is allowed to work legally in the United States.
<b>Basic Pilot Integrated program/system</b>	A revised version of the original Basic Pilot program that requires employers to enter Form I-9 data only once to initiate both SSA and INS verification. The computer system forwards relevant information from the employer to SSA and, if necessary, to INS.
<b>Basic Pilot program</b>	The first of three pilot projects for employment verification mandated by Congress in the Illegal Immigration Reform and Immigrant Responsibility Act. It verifies the status of all newly hired employees employed by participating employers in six States.
<b>Biometrics</b>	Biological identifiers, such as fingerprints and retinal scans, that can be used to establish identity with a high degree of certainty.
<b>Breeder documents</b>	Documents used to obtain other documents. For example, a birth parentage certificate is a breeder document for a driver's license.
<b>Central Index System (CIS)</b>	The INS database that is the primary source of information about noncitizens other than nonimmigrants.
<b>Citizen</b>	A person owing loyalty to a particular State, usually by virtue of birth, parentage, or naturalization. Generally used in the report to mean a U.S. citizen.
<b>Citizen Attestation Verification Pilot (CAVP)</b>	The second of three pilot employment verification projects mandated by Congress in the Illegal Immigration Reform and Immigrant Responsibility Act. The CAVP differs from the Basic Pilot in that employees who attest to being U.S. citizens are not verified electronically by the pilot system.

## GLOSSARY (continued)

Term	Definition
<b>Computer-Based Tutorial (CBT)</b>	A computer-based training program that guides and tests employer representatives on the use of and procedures for the pilot system. INS provides it to employers on a compact disc.
<b>Computer-Linked Application Information Management System (CLAIMS)</b>	An umbrella system that incorporates casework processing and tracking related to INS benefits.
<b>Database</b>	An electronic catalogue of information.
<b>Discrimination</b>	Adverse treatment of individuals based on group identity. In employment situations, discrimination is defined as differential treatment based on individual characteristics, such as race or gender, that are unrelated to productivity or performance.
<b>Employment authorization document (EAD)</b>	A document that is used to verify work authorization. The EAD application is processed at INS field offices and service centers.
<b>Employment authorized</b>	The designation that an employee is authorized to work in the United States. Persons authorized to work include U.S. citizens and nationals and noncitizens in various employment-authorized statuses.
<b>Employment verification</b>	Process of verifying authorization to work in the United States.
<b>Employment Verification Pilot (EVP)</b>	One of the early verification pilot programs instituted under the demonstration authority of the Immigration Reform and Control Act of 1986, as authorized under Executive Order 12781, dated November 20, 1991. This pilot verified the employment status of noncitizens only.
<b>Equal Employment Opportunity (EEO) notices</b>	Posted notices distributed by the Equal Employment Opportunity Commission saying that the employer does not discriminate.
<b>Establishment</b>	A location where an employer's business is conducted. A single employer can have many establishments.
<b>Executive Order 12781</b>	The Executive Order signed on November 20, 1991, authorizing INS to conduct demonstration projects for alternative employment verification systems. The Telephone Verification Pilot, the Employment Verification Pilot, and the Joint Employment Verification Pilot were conducted under this authority.

**GLOSSARY (continued)**

<b>Term</b>	<b>Definition</b>
<b>Final nonconfirmation</b>	A result on the pilot transaction database indicating that the employee's work eligibility was not established because the employee or the employer did not take the necessary action to resolve a tentative nonconfirmation. This result is only issued after the employer has been notified of a tentative nonconfirmation response.
<b>Firm</b>	Used in this report to refer to the corporate entity associated with establishments in the study. A firm may operate one place of business or more, such as a chain of restaurants. A firm contrasts with an establishment, which is a single physical location at which business is conducted.
<b>Foreign-born</b>	An individual who was born outside of the United States. American citizens can be foreign-born, either because they were born abroad to at least one parent of U.S. citizenship or because they were naturalized or derived U.S. citizenship through their parents.
<b>Foreign national</b>	An individual who is a citizen of a country other than the United States.
<b>Form I-551</b>	A permanent resident card (green card) issued to lawful permanent residents (immigrants) that fulfills both registration and work-authorization requirements.
<b>Form I-551 stamp</b>	A stamp placed in the foreign passport to serve as temporary proof that the holder has been admitted for lawful permanent residence and is authorized to work.
<b>Form I-688B</b>	The older, less secure employment authorization document (EAD) INS issues. It is produced on stand-alone machines at local offices. Over time, INS intends to eliminate the I-688B EAD and issue only the more secure I-766 EAD.
<b>Form I-766</b>	An employment authorization document produced at the four INS service centers. Form I-766 is a state-of-the-art, counterfeit-resistant card that includes a hologram, a photograph, and a fingerprint, among other security features.
<b>Form I-9</b>	The INS form employers use to verify the work-authorization status of all newly hired workers in the United States. The form was developed following passage of the Immigration Reform and Control Act of 1986. See Appendix E for an example of this form.

**GLOSSARY (continued)**

<b>Term</b>	<b>Definition</b>
<b>Form I-94</b>	An arrival-departure document issued to nonimmigrants, refugees, and asylees and used to fulfill documentary requirements. With an unexpired foreign passport, it can serve as proof of work authorization for certain groups of nonimmigrant workers, primarily those who are admitted to the United States to work for a specific employer.
<b>Fraudulent documents</b>	Documents that are counterfeit or are legitimate but have been altered to change the identifying information or images to represent another person. In this report, the term refers to identity and/or employment authorization documents.
<b>GENESYS</b>	A database, maintained by Marketing Systems Group, that contains demographic and business characteristics of establishments in the United States. It was used in the Basic Pilot program as a sampling frame for non-pilot employers. Information from this database was also used to compare pilot employers with non-pilot employers.
<b>H-1 Visa worker</b>	Highly skilled nonimmigrant workers admitted to the United States to work temporarily for a specific employer.
<b>Illegal alien</b>	A noncitizen who has not been lawfully admitted to the United States or who has violated the terms of his/her lawful admission.
<b>Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)</b>	A major immigration law enacted on September 30, 1996. Among other things, IIRIRA mandated that INS conduct and evaluate three pilot verification programs, including the Basic Pilot program.
<b>Immigrant</b>	A noncitizen who has been granted lawful permanent residence in the United States and is issued a Form I-551 (green card). An immigrant may either obtain an immigrant visa at a consular office overseas or, if a visa number is immediately available, adjust status at an INS office in the United States. Also refers to an individual who has moved to a new country with the intent of remaining there for 1 year or more. (See also <b>Lawful permanent resident alien</b> .)
<b>Immigration and Nationality Act of 1952 (INA)</b>	The major body of law that includes provisions relating to immigration and nationality. It has been amended several times, most prominently in 1965, 1976, 1978, 1980, 1986, 1990, and 1996.
<b>Immigration and Naturalization Service</b>	An agency of the U.S. Department of Justice that was responsible for enforcing the laws regulating the admission of foreign-born persons (i.e., aliens) to the United States and for administering various immigration benefits, including the naturalization of qualified applicants for U.S. citizenship. INS also worked with the U.S. Department of State, the U.S. Department of Health and Human Services, and the United Nations in the admission and resettlement of refugees. Since this evaluation was completed, INS was reorganized into several bureaus within the Department of Homeland Security.

**GLOSSARY (continued)**

<b>Term</b>	<b>Definition</b>
<b>Immigration Reform and Control Act of 1986 (IRCA)</b>	A major immigration law enacted on November 6, 1986, to gain control over illegal immigration. It provided for the legalization of certain long-term undocumented aliens and agricultural workers and for increased border enforcement, and made it unlawful to hire undocumented workers. It also required that U.S. employers verify the identity and work-authorization status of all persons they hire.
<b>Immigration Status Verifiers (ISVs)</b>	INS field office employees who verify immigration status for participating benefit and licensing agencies and pilot employers. One of their functions is to verify the status of individuals receiving a tentative nonconfirmation from INS.
<b>Indirect costs</b>	A cost that is not identifiable with a specific function, product, or activity. For example, indirect costs associated with setting up the employment verification program can include reassignment of employees, additional recruitment, and delayed production.
<b>Insecure documents</b>	Documents that can easily be altered or counterfeited.
<b>Joint Employment Verification Pilot (JEVP)</b>	A pilot employment verification program, tested with 38 employers in the Chicago area under INS's demonstration authority that was the precursor to the Basic Pilot program. All newly hired employees were verified with SSA, and the work authorization of noncitizens was verified by INS.
<b>Lawful permanent resident alien</b>	A noncitizen who is admitted to the United States to reside permanently. A green card holder. (See also <b>Immigrant</b> .)
<b>Machine-Readable Document Pilot (MRDP)</b>	Pilot mandated by the Illegal Immigration Reform and Immigrant Responsibility Act. The MRDP is identical to the Basic Pilot except that a machine-readable driver's license may be used to enter employee information into the computer. The pilot is currently being tested only in Iowa.
<b>Memorandum of Understanding (MOU)</b>	A signed document in which an employer agrees to abide by the provisions of the pilot program and in which INS and SSA agree to provide certain materials and services. See Appendix H.
<b>Nonimmigrant</b>	A noncitizen admitted to the United States with a nonimmigrant visa or under the visa waiver program for a specified temporary purpose and time period. Common examples are tourists, students, and foreign government officials.
<b>Nonimmigrant Information System (NIIS)</b>	This database provides information on nonimmigrant arrivals and departures to support the controlled admission of nonimmigrants to the United States through ports of entry and to track nonimmigrant departures for identifying potential overstays.



**GLOSSARY (continued)**

<b>Term</b>	<b>Definition</b>
<b>Non-pilot employer</b>	An employer who is not participating in the Basic Pilot program or the CAVP program.
<b>No show</b>	A result on the transaction database indicating that an employee did not contact SSA or INS to pursue the resolution of a tentative nonconfirmation within the allotted timeframe.
<b>Notice of tentative nonconfirmation</b>	The printed form a pilot employer is to provide notifying an employee that a tentative nonconfirmation has been issued by the verification system and informing the employee of his/her rights and responsibilities with respect to the problem. The employee must sign the form, indicating whether he/she wishes to contest the finding.
<b>Numerical Identification File (NUMIDENT)</b>	The SSA database containing information on all persons issued Social Security numbers. In the employment verification pilots, employers access the NUMIDENT database to confirm the accuracy of the employee's reported Social Security number, name, date of birth, and citizenship/immigration status.
<b>Office of Special Counsel (OSC) for Immigration-Related Unfair Employment Practices</b>	Office established in the U.S. Department of Justice by the Immigration Reform and Control Act of 1986 to provide remedies for immigration-related discrimination related to employer sanctions and employment verification. The office provides a mechanism for dealing with discriminatory employment practices, including hiring and discharge from employment based on citizenship status or national origin.
<b>Operating costs</b>	Recurring costs associated with program operations.
<b>Operator error</b>	An entry incorrectly keyed into an employment verification database by an employer.
<b>Original Basic Pilot system</b>	The system initially used in the Basic Pilot to confirm employee eligibility. The employer input information to the SSA database by touchtone telephone. If INS contact was necessary, the employer entered additional Form I-9 information using a PC and a modem.
<b>Original Basic Pilot States</b>	The five States initially selected for employer participation in the Basic Pilot program – California, Florida, Illinois, New York, and Texas.
<b>Out-of-status worker</b>	A noncitizen who does not currently have authorization to work in the United States.
<b>Pilot community</b>	The community within which a pilot employer conducts business.
<b>Pilot employee</b>	An individual working for a Basic Pilot employer.

**GLOSSARY (continued)**

<b>Term</b>	<b>Definition</b>
<b>Pilot employer</b>	An employer that has signed a Memorandum of Understanding agreeing to participate in the Basic Pilot program. Not all of these employers are actively using the system at any point in time.
<b>Pilot non-users</b>	Employers who signed the Memorandum of Understanding but are not actually using the Basic Pilot system. In this report, pilot non-users are employers who reported in the employer mail survey that they were not using the system.
<b>Pilot State</b>	A State in which a pilot program is operating. For the CAVP program, the pilot States are Arizona, Maryland, Massachusetts, Michigan, and Virginia.
<b>Pilot users</b>	Pilot employers who are actually using the Basic Pilot system. In this report, pilot users are employers who reported in the employer mail survey that they are using the system.
<b>Point-of-sale device</b>	A device that is used to record a transaction (usually sale of a product at a retail establishment).
<b>Prescreen</b>	To evaluate the employment authorization status of an individual before hiring him/her. This practice is prohibited.
<b>Primary query</b>	The first step in the computerized pilot employment verification process. The employer enters information from the employee's completed I-9 form and transmits it to SSA and, if necessary, INS.
<b>Probability of selection</b>	The probability of a unit being selected into a sample. For example, if all pilot employers are included in the sample, the probability of selection is 1; if half are included, the probability of selection is 0.5.
<b>Process evaluation</b>	An evaluation to determine if a program is operating efficiently and in a way that is consistent with the original program requirements.
<b>Query</b>	The action of keying information and accessing a database to verify employment eligibility. A single employment verification may involve multiple queries.
<b>Referral notice</b>	The official notice an employer provides to an employee who wishes to contest a tentative nonconfirmation finding in the verification process. It explains what procedures the employee must take to resolve his/her case.
<b>Sampling frame</b>	The list from which a sample is selected. For example, in the on-site employer survey the sampling frame was all Basic Pilot establishments in the five original States that were actively using the pilot system.

## GLOSSARY (continued)

Term	Definition
<b>Sanctions (of employers)</b>	A provision in section 274A of the Immigration and Nationality Act that makes it unlawful to hire or continue to employ workers who are not authorized to work in the United States. It provides penalties for employers who knowingly hire workers who are not work-authorized.
<b>Secondary verification</b>	The second stage of verification under the pilot programs, in which an INS Immigration Status Verifier seeks additional information relevant to an employee's work-authorization status. This step is required if the electronic SSA and INS verification process cannot confirm work authorization.
<b>Secure documents</b>	Documents that have special features such as holograms, embedded images, biometric identifiers, or other security features that make them difficult to counterfeit. Such documents are issued through processes that are also secure.
<b>Self-terminated</b>	Generally, this means that the employee resigned. However, some employers use this category when they fire an employee for reasons unrelated to the Basic Pilot process.
<b>Social Security Administration (SSA)</b>	An agency of the U.S. Government that is responsible for administering several Federal programs. SSA issues Social Security numbers to eligible persons; provides financial protection to workers and their families, as well as retirement, disability, or survivors benefits; and pays monthly benefits to the aged, blind, or disabled who have little or no resources.
<b>Stakeholders</b>	Individuals and organizations with an interest in a program or issue.
<b>Standard Industrial Codes (SIC)</b>	A standard set of codes developed by the Federal Government to classify industries.
<b>Start-up cost</b>	The costs incurred by a business or the Federal Government to initiate and implement a new program
<b>Systematic Alien Verification for Entitlements (SAVE)</b>	A program administered by INS used by benefit-issuing agencies, licensing bureaus, and employment verification pilot employers to determine a noncitizen's immigration status.
<b>Target population</b>	The individuals or groups of interest to a study. For the CAVP program, the target population consisted of establishments that were mailed surveys, hired at least one person during a specified period of time, and used the CAVP.
<b>Telephone Verification Pilot (TVS) System</b>	The first pilot program initiated under INS's demonstration authority in 1992. The pilot used Systematic Alien Verification for Entitlements (SAVE) procedures to enable the nine participating employers to verify the employment eligibility of noncitizen hires via telephone.

**GLOSSARY (continued)**

<b>Term</b>	<b>Definition</b>
<b>Telephone Verification Pilot (TVP)</b>	The second pilot program initiated in 1995 under INS's demonstration authority. The pilot used Systematic Alien Verification for Entitlements (SAVE) procedures to enable the 238 participating employers in the Los Angeles area to verify the employment eligibility of noncitizen hires using personal computers and modems to access the INS database.
<b>Tentative nonconfirmation (of work authorization)</b>	The initial response from the employment verification pilot system when an employee's work authorization cannot be immediately confirmed. There are many possible reasons that an employee may receive a tentative nonconfirmation, ranging from employer keying errors to an employee's lack of authorization to work.
<b>Transaction database</b>	The administrative database that captures all CAVP transactions by employers and INS.
<b>Triangulation</b>	The general approach used by the evaluation team to analyze the multiple data sources available. Triangulation involves comparing the results of the analyses of multiple data sources and reconciling or explaining inconsistencies among the findings from the different sources.
<b>U.S. citizen</b>	An individual who is born in the United States or attains U.S. citizenship by birth abroad to U.S. citizen parents, naturalization, or derivation of citizenship following his/her parents' naturalization.
<b>Unauthorized worker</b>	A noncitizen who does not have legal permission to work in the United States because of his/her immigration status or because he/she has applied and been found ineligible for work authorization.
<b>Underground economy</b>	Economic activity that is unrecorded in the gross domestic product figures. It includes illegal and criminal activities such as gambling and drug dealing, as well as income that goes unreported to avoid taxation.
<b>Undocumented immigrant</b>	See <b>Illegal alien</b> .
<b>Verification transaction record</b>	A record in the Basic Pilot transaction database capturing employer-entered information to determine an employee's work authorization.
<b>Web access method of employment verification</b>	A system under development that will allow SSA and INS to administer and employers to participate in the employment verification pilots through the Internet.



## APPENDIXES

- A Methodological Notes
- B Cost Estimates for the Federal Government
- C Estimation of the Work-Authorization Status of Unresolved Cases
- D Supplemental Information on Characteristics of Pilot States, Communities, Employers, and Employees
- E Form I-9
- F Questionnaires
- G Notice of Tentative Nonconfirmation and Referral to INS
- H Memorandum of Understanding (MOU)

Appendix A  
Methodological Notes





## APPENDIX A. METHODOLOGICAL NOTES

This appendix presents supplemental information on the methodology used in the employer surveys and the I-9 form, transaction database, and integrated I-9 form/transaction database analyses. Appendixes B and C provide additional information on the methods used to estimate costs and work-authorization rates in this report.

### A. MAIL AND ON-SITE SURVEYS OF EMPLOYERS

This section provides additional detail on the methods used in weighting, variance estimation, and statistical testing for the mail and on-site surveys of employers.

#### 1. BACKGROUND

The sample selection and estimation approaches used for the mail and on-site surveys of employers are based on probability sampling methods. Probability samples allow analysts to compute sampling weights, estimate the precision of sample estimates, and test the statistical significance of hypotheses. Nonresponse adjustment through weighting implies that, within adjustment cells, nonrespondents are similar to respondents in the characteristics or behavior reported in the survey. To the extent that this assumption is not correct, the estimates may contain some bias.

#### 2. WEIGHTING

##### a. MAIL SURVEY

Because the mail survey was a census of all eligible employers, the evaluation team did not have to calculate sampling weights. However, because some employers did not respond to the mail survey, statistics calculated from the survey may be biased as estimators of the corresponding population characteristics if nonrespondents and respondents had different characteristics. Therefore, the evaluation team used weighting-cell adjustment methods<sup>1</sup> to produce, for each sample member on the file, a weight that adjusted for establishment nonresponse.

The nonresponse adjustment cells were constructed by classifying sample establishments according to size.<sup>2</sup> Unfortunately, size information was missing for 18 establishments. The missing values were imputed by regression, using the number of transaction database activities as the predictor.<sup>3</sup>

Each eligible establishment was classified into one of six mutually exclusive adjustment cells based on its size. The nonresponse adjustment factor was calculated for each adjustment cell that contained at least 25 establishments and had a response rate not less

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<sup>1</sup> Little and Rubin, 2002.

<sup>2</sup> Establishment size was also used for nonresponse adjustment on the Basic Pilot surveys.

<sup>3</sup> The model was statistically significant ( $R^2=0.2536$ ;  $F=61.15$ ,  $p < 0.001$ ).

than two-thirds of the overall response rate. When a cell did not meet these criteria, a new set of adjustment cells was constructed.

Weights were calculated using the following formula:

$$W_c^M = \frac{N_c^M}{n_c^M},$$

where  $W_c^M$  is the mail survey weight associated with cell  $c$ ,  $N_c^M$  is the number of employers in the population eligible for the mail survey in cell  $c$ , and  $n_c^M$  is the number of mail survey respondents in cell  $c$ .

Exhibit A-1 shows the cell-specific response rates and the number of eligible establishments in each of the final cells. These nonresponse-adjusted weights were used in this report to produce unbiased estimates of mail survey statistics.

**Exhibit A-1: Response Rates by Establishment Size in the CAVP Mail Survey of Employers**

<b>Establishment Size (employees)</b>	<b>Response Rate (%)</b>	<b>Number of Eligible Employers</b>	<b>Number of Respondents</b>	<b>Weight</b>
1-75	43.4	53	23	2.3
76-150	65.5	29	19	1.5
151-212	44.0	25	11	2.3
213-305	52.0	25	13	1.9
306-575	66.7	27	18	1.5
576 +	75.0	28	21	1.3
<b>Total</b>	<b>56.2</b>	<b>187</b>	<b>105</b>	

**b. ON-SITE SURVEY**

The method used to calculate weights for the employer mail survey was also used for the on-site survey, as follows:

$$W_c^O = \frac{N_c^O}{n_c^O},$$

where  $W_c^O$  is the on-site survey weight associated with cell  $c$ ,  $N_c^O$  is the number of employers in the population eligible for the on-site survey in cell  $c$ , and  $n_c^O$  is the number of on-site survey respondents in cell  $c$ .

Exhibit A-2 shows the cell-specific response rates and the number of eligible establishments in each cell. The nonresponse-adjusted weights should be used to produce unbiased estimates of statistics for the on-site survey.

**Exhibit A-2: Response Rates by Establishment Size in the CAVP On-Site Survey of Employers**

<b>Establishment Size (employees)</b>	<b>Response Rate (%)</b>	<b>Number of Eligible Employers</b>	<b>Number of Respondents</b>	<b>Weight</b>
1-156	85.2	27	23	1.2
157-399	66.7	27	18	1.5
400 +	96.3	27	26	1.0
<b>Total</b>	<b>82.7</b>	<b>81</b>	<b>67</b>	

**c. LIMITATIONS OF WEIGHTING**

Nonresponse-adjusted weights for the mail and on-site surveys of employers were constructed by weighting respondents to known population totals in the given size categories. However, to the extent that the respondents and nonrespondents in each size category differ on survey items or variables, some nonresponse bias will remain.

**3. VARIANCE ESTIMATION AND TEST OF SIGNIFICANCE**

Because all of the statistics presented in this report are simple descriptive statistics, the evaluation team did not perform tests of significance or calculate variances.

**4. HANDLING ITEM NONRESPONSE**

Item nonresponse occurs when a sampled establishment provides some key information, but not all of the information. Unit nonresponse occurs when a sampled establishment does not provide some key information. The nonresponse-adjusted weights for the mail and on-site surveys were developed to handle unit nonresponse.

Various imputation methods have been developed to compensate for the bias of item nonresponse.<sup>4</sup> Imputation is an attractive approach for analyzing incomplete data. However, a naive imputation method may create more problems than it solves, distorting estimates, variances, and hypothesis tests. Therefore, the evaluation team did not use imputation methods to estimate missing values for items in the mail and on-site surveys.

**B. ANALYSIS OF I-9 FORMS**

The sampling of I-9 forms was based on the estimated number of employees hired in the 6 months before the date on which the mail survey was received. The number of I-9 forms collected was based entirely on an estimate reported by pilot employers. If 190 or fewer employees had been hired in the 6-month period, the interviewer was to photocopy all I-9 forms for these employees. If more than 190 employees had been hired in the 6-month period, the interviewer selected a systematic random sample from among the I-9 forms. Weights for the entire sample of I-9 forms were set equal to the product of the on-site employer survey weight and the inverse of the Form I-9 sampling rate used by the

<sup>4</sup> For details, see Rubin, 1987; Little and Rubin, 1987; and Schafer, 1997.

interviewer in selecting the forms. Weights were not used in analyzing the forms of individual employers, because all weights for a given employer were equal.

The Form I-9 database was subject to a considerable amount of nonsampling error. For example, more than 500 of the 5,790 sampled I-9 forms (9 percent) required review for one or more types of “irregularities,” such as citizenship status being missing or inconsistent with other information submitted (411 cases). Information on the I-9 form and any attached documents was used to resolve the discrepancy in almost half of these cases. In other cases, the I-9 form was incomplete or difficult to read because of poor handwriting and/or poor photocopy quality.

Nonresponse bias is a second type of nonsampling error that was of concern. The nonresponse bias associated with the on-site employer survey was a major concern for the Form I-9 analyses, because many of the non-interviewed employers were large establishments with an above-average number of recent newly hired employees. Furthermore, since I-9 forms were selected from employer records on site, there was no easy way to estimate the amount of “nonresponse” error due to missing I-9 forms.

### **C. ANALYSES OF THE TRANSACTION DATABASE**

INS provided the evaluation team with a data file consisting of 19,716 records from an INS contractor responsible for capturing information input by employers and Immigration Status Verifiers, as well as the results of the automated verification processes. The file contains data from the inception of the CAVP program until October 1, 2001. The evaluation team eliminated duplicate records and records not associated with the 187 employers involved in the mail survey. The resulting file, referred to in this report as the transaction database, contains data for 14,504 hiring situations (defined as a unique employer/employee combination).

Because basic information is available for all cases transmitted to the transaction database, the resulting sample can be viewed as constituting a census of all transmitted cases, and is therefore not subject to sampling error. However, there is considerable nonsampling error associated with the file. Most importantly, more than 42 percent of the transaction database records are missing all or most of the employer-entered Form I-9 data (e.g., employee name, date of birth, citizenship attestation, documents presented).<sup>5</sup> Further, cases that are missing data differ in important ways from cases with complete data. For example, 96 percent of cases missing citizenship attestation information on the transaction database were work-authorized, compared to 62 percent of all cases. Because of this data limitation, the evaluation team was unable to perform some of the planned analyses.

Another source of nonsampling error resulted from inaccuracies that occurred while resolving duplicate cases. Identification of duplicate cases was not always straightforward. When the employee’s name and Social Security number did not match

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<sup>5</sup> The contractor who prepared the database was unable to explain why the data were missing.

exactly, data coders had to scan the cases visually to determine whether they were duplicates. Thus, the unduplication process is subject to classification errors.

#### **D. INTEGRATED I-9 FORM AND TRANSACTION DATABASE ANALYSES**

The evaluation team merged information from the I-9 forms and the transaction database. This match was complicated by problems with the I-9 forms and the transaction database, as noted above. For example, the evaluation team had no evidence of either an Alien Number or an I-94 number for 4 percent of the 1,322 employees who did not attest to U.S. citizenship on the I-9 form. The absence of an INS-issued number on the I-9 form makes it difficult to match these cases to the transaction database, especially given the high proportion of transaction database cases that are missing names and other personal information.



Appendix B  
Cost Estimates for the Federal Government





## **APPENDIX B. COST ESTIMATES FOR THE FEDERAL GOVERNMENT**

Two types of cost analyses were used in Chapter V. First, costs for the CAVP were estimated. Second, the evaluation team estimated what the pilot costs would have been in a set of hypothetical situations that permit the comparison of the CAVP and Basic Pilot programs. Both of these types of estimates are discussed in this section.

### **A. COST ESTIMATES FOR THE CAVP PROGRAM AS IMPLEMENTED**

#### **1. OBTAINING PRELIMINARY ESTIMATES**

The first step in calculating Federal estimates was to obtain from INS staff estimates of total costs for the three pilot programs authorized under the Illegal Immigration Reform and Immigrant Responsibility Act. These preliminary estimates covered the period from January 1997 through April 2000. As noted in Chapter V, no formal records were available for estimating many of these costs.

#### **2. BREAKDOWN OF CURRENT COSTS INTO START-UP COSTS AND OPERATING COSTS**

The evaluation team made a preliminary attempt to divide the costs provided by INS into start-up costs and operating costs. They then met with INS staff to review these estimates and to clarify what information was included in the various categories. For example, some but not all of INS's original cost estimates were for all Systematic Alien Verification for Entitlements (SAVE) programs. INS and the evaluation team discussed the best way to allocate these costs across programs. Fixed costs that would have been incurred in the absence of the pilot programs (e.g., development costs for software used by SAVE to administer both the benefit-related programs and the pilot programs) were excluded from the cost figures.<sup>1</sup> Other costs (e.g., Headquarters salaries for pilot program staff) were prorated among the pilot programs.

#### **3. FURTHER BREAKDOWN OF OPERATING COSTS**

Once a total operating cost for each major item had been estimated, the evaluation team annualized the operating costs by dividing the historical costs by the number of years on which they were based. At that point, no adjustment was made for inflation.

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<sup>1</sup> Excluded were costs for developing the Verification Information System (VIS) (\$6.25 million) and the web access method of employment verification (\$510,000). VIS and web access comprise the new equipment and software platform developed for all of the SAVE programs.

For each of the major cost categories listed in Exhibit V-5, the evaluation team broke the estimated annual cost into the following types of costs related to the CAVP program:<sup>2</sup>

- Fixed costs
- Cost per establishment
- Cost per new establishment
- Cost per INS office
- Cost per query
- Cost per INS second-stage verification

For each cost category, the average annual number of units was also estimated.

#### **4. ADDITIONAL NOTES ON SPECIFIC COSTS**

##### ***a. INS HEADQUARTERS SALARIES AND EXPENSES***

INS was able to provide a good estimate for the total salaries of SAVE staff working on the pilot employment verification projects. SAVE staff estimated that approximately 10 percent of their time was devoted to the CAVP program at the time of the interview. This percentage seems reasonable, given that the CAVP program was far smaller than the Basic Pilot program during this time. The primary task of INS Headquarters staff is to develop policies and systems for the pilot programs. These functions should not be particularly sensitive to measures of pilot program size, such as the number of employers. The evaluation team therefore estimated that 85 percent of INS Headquarters annual costs were for fixed expenses.

Because of the way that budgeting is performed at INS, individual operating units are aware of their total salary costs but not all of the non-salary expenses associated with their employees. Many indirect costs, such as employee benefits, are included in other budget lines. INS provided an internal report that broke down total costs for different types of employees into salary, overhead items (such as training, communications equipment, and office supplies), and employee benefits. An analysis of this information indicated that total INS costs per employee were approximately 2.5 times the employee's base salary. Therefore, the evaluation team estimated that total salary and other costs were 2.5 times the INS estimate of salary costs.

INS staff also estimated the percentage of their time spent in dealing with establishments, but they could not estimate how their time was split between new establishments and

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<sup>2</sup> For any major cost category, only some of the types of costs were applicable. The relevant types of costs were INS Headquarters salaries; INS field personnel; verification query costs; production of computer disks, manuals, and pilot notices; and systems operation and maintenance costs. Costs related to the Social Security Administration (SSA) were excluded.

ones that had been in operation for a longer time. The evaluation team believed that establishments new to the pilot program would have more questions than establishments that had more experience with the program. The total expenditure for answering questions was therefore broken down into costs per new employer and costs per employer; costs for new employers were estimated to be five times those of more experienced employers.

**b. INS FIELD PERSONNEL**

INS was able to provide the evaluation team with the number and approximate grade levels of Immigration Status Verifiers (ISVs) and their supervisors who were responsible for processing most of the tentative nonconfirmation cases in the Los Angeles office.<sup>3</sup> To estimate the total salary expense for these employees, the evaluation team used Federal salary levels for Los Angeles in 2000 for employees at step 3 in their respective grades.

The Los Angeles ISVs and their supervisors both indicated that the normal workload for an ISV was 70 cases a day. The average ISV was assumed to work 218 days a year (i.e., 261 total weekdays a year minus 13 sick days, 20 vacation days, and 10 holidays). Thus, the average ISV was assumed to complete 15,260 cases a year. Because there were 3 supervisors for 21 ISVs<sup>4</sup> in the Los Angeles office, one-seventh of the salary of a GS-9 was added to the ISV salary to estimate the total cost of completing 15,260 cases. The same ratio of total employee-related costs to salaries (2.5) that was used for Headquarters staff was used for field staff. The above information yielded an estimated per-case cost of \$5.62 for the Los Angeles ISVs, as follows:

$$[(\$28,770 + \$38,945/7)*2.5]/15,260$$

The estimate of \$5.62 does not include costs associated with ISVs in other offices because, according to the Los Angeles ISVs, these other staff were involved only in “walk-in” cases in their offices (a fairly rare occurrence) and in cases where the Los Angeles ISV needed information from the noncitizen’s local office to complete the case. It therefore seemed reasonable to estimate that the costs for these other ISVs would add 10 percent to the employee costs for Los Angeles ISVs, for a total per-case cost of \$6.19 for cases that go to secondary verification at INS.<sup>5</sup>

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<sup>3</sup> INS indicated that the ISVs were at either the GS-5 or GS-7 level but did not indicate what percentage were at these levels. The evaluation team therefore used a salary level halfway between the GS-5 and GS-7 levels in its estimates. Supervisors were at the GS-9 level.

<sup>4</sup> The total salaries for these staff could not be used, because the ISVs also handled verification for benefit programs and for a State-run pilot program, in addition to the INS employment verification programs.

<sup>5</sup> This cost includes any work that the ISVs must do for cases that are contested by employees, since Los Angeles ISVs are responsible for following an assigned case to its conclusion whether or not it is contested.

**c. VERIFICATION QUERY COSTS**

Because a contractor performed most of the verification query work, INS had good estimates of these costs.

**d. PRODUCTION OF COMPUTER DISKS, MANUALS, AND PILOT NOTICES**

Tasks such as producing computer disks, manuals, and notices typically entail a fixed cost for setting up the production process, plus a per-item cost. However, the breakdown of the costs into these components is not known precisely.

**e. SYSTEMS OPERATION AND MAINTENANCE**

INS reported that the systems operation and maintenance costs depended on the number of problems encountered. The evaluation team assumed that most problems would arise regardless of the size of the system. However, it also seems reasonable that the likelihood of problems occurring (or being detected) increases with the number of system users. Therefore, the evaluation team assumed that some of the systems costs would be proportional to the number of establishments enrolled in the pilot program. The proration of fixed and variable costs was approximate.

**5. INFLATION ADJUSTMENT**

Because the cost estimates for the CAVP were derived in large part from cost figures provided early in the implementation of the pilot, the evaluation team adjusted all of the cost estimates for inflation, using the Consumer Price Index for 1997-1999.

**6. ESTIMATION OF RELEVANT UNITS**

**a. ESTABLISHMENTS**

The number of establishments in the CAVP program was calculated from the information INS maintained on the number of signed Memorandums of Understanding (MOUs) on a monthly basis. These monthly figures were cumulated to estimate the average number of employers with signed MOUs during the period for which the evaluation team had cost figures.

**b. NEW ESTABLISHMENTS**

The number of establishments newly enrolled in the CAVP program was estimated by annualizing the number of monthly enrollments recorded by INS during the base period.

**c. INS OFFICES**

INS provided a list of ISVs within INS district offices. Fifty field offices had ISVs who serviced all three pilot programs. The evaluation team assumed that 25 of these offices serviced CAVP cases, since the CAVP was considerably smaller than the Basic Pilot program.

**d. QUERIES**

The annual number of queries for the CAVP program was obtained from the CAVP transaction database.

**e. INS SECOND-STAGE VERIFICATIONS**

The number of CAVP cases referred for second-stage verification was obtained from the transaction database.

**B. COMPARISON OF CAVP COSTS WITH BASIC PILOT AND NATIONAL COSTS**

This report examines costs for four hypothetical scenarios: the CAVP program implemented with Basic Pilot employers, the Basic Pilot program implemented with CAVP employers, and both the CAVP and Basic Pilot programs implemented nationally. Estimated per-unit and fixed costs for the CAVP and Basic Pilot programs were taken from the cost analyses of these two programs.<sup>6</sup> However, for comparative purposes no inflation adjustment was made to the CAVP costs (that is, costs for both programs were based on costs at the time the Basic Pilot was implemented).

Several estimates of the number of units for the hypothetical scenarios were taken directly from the two programmatic analyses. For example, the number of employers that would have been involved in the CAVP program if it had been implemented with Basic Pilot employers was set equal to the number of employers enrolled in the Basic Pilot program. However, in some cases the number of units had to be estimated in a more complex fashion. This section explains how the evaluation team estimated the number of units when the estimate was not straightforward.

**1. ESTABLISHMENTS**

Estimates of the total number of establishments in the Nation were obtained from the Census Bureau's Web site (<http://www.census.gov/epcd/www/smallbus.html>).

**2. NEW ESTABLISHMENTS**

For the national estimate, the number of new establishments was estimated by multiplying the estimated number of establishments by the national ratio of new establishments to the total number of establishments (11.9 percent).<sup>7</sup>

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<sup>6</sup> The estimates for the CAVP are explained in Section A above. The comparable estimates for the Basic Pilot program are discussed in Appendix E of the Basic Pilot report, except that the estimated per-case cost for SSA case reviews was modified based on information recently obtained from SSA. Instead of \$6.19 per case, an estimate of \$10.08 per case was used in the current analysis.

<sup>7</sup> Idem.

### **3. INS OFFICES**

For the national program, it was assumed that 73 INS field offices would be involved.

### **4. NUMBER OF NEW EMPLOYEES AND NUMBER OF NEW NONCITIZEN EMPLOYEES**

Some of the estimates used in the scenarios required that the evaluation team estimate the number of new employees or the number of new noncitizen employees. The number of new employees for the Basic Pilot program was based on information from the transaction database. For the CAVP, the number of new employees was estimated by multiplying the transaction database number by the ratio of all employees to the number of noncitizen employees estimated in the I-9 analysis. National estimates were obtained by multiplying the number of U.S. employees from the Census Bureau's Web site (<http://www.census.gov/epcd/www/smallbus.html>) by an estimate of the percentage of the national workforce that is hired annually.

For the CAVP and Basic Pilot programs, the number of new noncitizen employees was based on the number of noncitizen employees on the transaction database. For the national program, the number of new noncitizen employees was assumed to be 8 percent of all new employees, based on information from the 2000 Current Population Survey on the percentage of the workforce who are noncitizens.

### **5. QUERIES**

For scenarios that required estimates of the number of CAVP queries, the number of queries was assumed to be proportional to the estimated number of noncitizen employees hired during the year. For scenarios that required estimates of the number of Basic Pilot queries, the number of queries was assumed to be proportional to the estimated number of new employees hired during the year. The ratios of the number of queries to the number of new employees to be screened were based on data from the transaction database.

### **6. INS SECOND-STAGE VERIFICATIONS**

The number of cases referred for second-stage INS verification was assumed to be proportional to the number of queries observed in the actual programs.

## Appendix C

### Estimation of the Work-Authorization Status of Unresolved Cases





## **APPENDIX C. ESTIMATION OF THE WORK-AUTHORIZATION STATUS OF UNRESOLVED CASES**

### **A. BACKGROUND**

Several of the evaluation's key goals, as articulated in the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) and by stakeholders, required the evaluation team to estimate work-authorization rates for various groups of newly hired employees in establishments participating in the Citizen Attestation Verification Pilot (CAVP). Examination of the transaction database provided only limited information of use in meeting these goals. The work-authorization rate for noncitizens could not be accurately estimated, since only 0.3 percent of all cases were determined by the CAVP system to be unauthorized, while 38 percent of the cases were final nonconfirmation cases. In other words, on the basis of this information alone, the estimated percentage of screened noncitizen employees who were not work-authorized was between 0.3 and 38 percent. This range is too broad to provide a meaningful estimate. Moreover, since citizens were not screened by the CAVP, the transaction database provided no information about the rate of fraudulent attestation to U.S. citizenship by unauthorized workers.

Information from employer and Federal interviews indicated that the final nonconfirmation cases included a mix of work-authorized and non-work-authorized cases. However, this information was not specific enough to provide precise estimates of the percentage of the cases in each category and did not provide evidence for estimating the rate of fraudulent attestation to U.S. citizenship by unauthorized workers.

To obtain empirical evidence for estimating key statistics related to work authorization, a record review was conducted of the work-authorization status of employees whose I-9 forms had been collected during employer on-site visits. Additional relevant information for this estimate for noncitizens was obtained by analyses of the factors affecting the work-authorization outcomes (i.e., work-authorized versus final nonconfirmation or unauthorized findings<sup>1</sup>) of Form I-9 cases on the transaction database. Information about these estimates is included in Section B of this appendix.

A second method for estimating the work-authorization status of noncitizens involved developing a model. This model was based on observations of the relationship between the initial and final INS findings for a sample of cases. Information about the modeling is included in Section C of this appendix.

Section D presents an explanation of the calculations of the work-authorization rates for an alternative CAVP program requiring a match against Social Security Administration (SSA) data prior to cases being checked against the INS Alien Status Verification Index (ASVI).

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<sup>1</sup> The small number of unauthorized noncitizens precluded treating them as a separate category in these analyses; they were, therefore, combined with the final nonconfirmation cases for the analyses.

## **B. RECORD REVIEW STUDY**

The goal of the record review was to estimate the overall work-authorization rates for citizens and noncitizens from the 5,790 cases for which I-9 forms were collected from CAVP employers during the on-site survey. It is important to note that the work-authorization rate for the 611 transaction database cases for which I-9 forms were collected (76 percent) is higher than the rate for the total transaction database (62 percent). This may reflect a tendency for employers to discard some I-9 forms for persons they believed to be non-work-authorized, such as cases where the employer acted on a tentative nonconfirmation finding without giving the employee a chance to contest or where the employee chose not to contest. If this is indeed the case, the record review study will tend to underestimate the percentage of cases without work authorization.

### **1. ELECTRONIC CASE REVIEW**

The first step in the record review consisted of matching the Form I-9 sample cases against several databases. These included the transaction database for the CAVP, the SSA database used in verifying cases in the Basic Pilot program, and the two INS databases that are the sources of the ASVI database used in the pilots [the Central Index System (CIS) and the Nonimmigrant Information System (NIIS)]. This matching was sufficient to permit the evaluation team to determine that the following Form I-9 cases were work-authorized:

- Cases that were on the transaction database that had been determined to be work-authorized by INS (514 cases)
- Employees who had claimed to be citizens on the I-9 form, where the SSA match confirmed that the Social Security number was consistent with the name and date of birth and also indicated that the individual had a citizenship status of “citizen” or “unknown” (3,829 cases).<sup>2</sup> These cases would have been determined to be work-authorized in the Basic Pilot program, which verified all newly hired employees.

### **2. SAMPLE SELECTION FOR INTENSIVE RECORD REVIEW**

The 1,447 Form I-9 cases that had work-authorization statuses that could not be determined solely from the electronic case review were stratified. The stratification used the citizenship attestation information on the I-9 form and information obtained by matching these cases against the SSA database. Cases were selected within these strata to receive a more intensive record review in the second phase of the study.

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<sup>2</sup> “Unknown” citizenship status refers to cases that matched information on Social Security number, date of birth, and name but lacked information about citizenship status. These were employees who had obtained their Social Security numbers before SSA started checking citizenship status in 1981. When these employees attested to U.S. citizenship, the pilot programs considered them to be verified.

Sampling within strata was done using the criteria listed below. (See Exhibit C-1 for a list of the strata.) As discussed later in this appendix, an estimation method was used to attempt to reduce biases associated with the selection method. Case characteristics used in selecting cases within the strata, in order of their application, were as follows.

- Employees attesting on the I-9 form to being work-authorized noncitizens were excluded from the review if they did not have records in the CIS or the NIIS. These cases could not be reviewed, because INS records were not available for them (750 cases were removed for this reason).<sup>3</sup>
- Employees attesting on the I-9 form to being work-authorized noncitizens were excluded from the review if they were matched to the ASVI database but their records were not at the INS National Records Center (NRC). Because the review was to be conducted on-site at the NRC, adding cases that were in the field offices would have added considerably to the cost and time for the review (214 additional cases were removed for this reason).<sup>4</sup>
- Employees who had I-9 forms with copies of documents attached were selected, when possible, given the targeted sample size for the stratum and the number of cases in the stratum. These attached documents provided information that was useful in determining the work-authorization status of the employees (99 additional cases were removed for this reason).
- Employees who had records on both the transaction and SSA databases identifying them as noncitizens were categorized on whether they were likely to be work-authorized on the basis of their immigration status as shown on the ASVI database. Employees with a high probability of being work-authorized were removed (166 cases were removed for this reason).

The selected sample consisted of 218 cases.

### **3. INTENSIVE RECORD REVIEW METHODOLOGY**

Two staff members of INS's Research and Evaluation Division examined the official INS hard-copy files for these employees and, if necessary, checked additional INS databases. They also examined copies of the I-9 forms and any attached documents used in the verification process for the selected cases. On the basis of this review, they determined whether the selected employees were work-authorized at the time their Form I-9 information was submitted to the CAVP system.<sup>5</sup>

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<sup>3</sup> See Section 4 below for an explanation of how these cases were treated when estimating the work-authorization rate.

<sup>4</sup> INS sends all files to the NRC once active work on them is completed in a field office.

<sup>5</sup> Note that some employees who attested to U.S. citizenship were noncitizens with work authorization. These employees were not considered to be fraudulently attesting to U.S. citizenship.

**Exhibit C-1: Estimates of Work-Authorization Rates for Employees of CAVP Employers<sup>1</sup>**

<b>Result of Match with SSA</b>	<b>CIS Match Status</b>	<b>Estimated Number of Population Cases in Stratum <math>N_k</math></b>	<b>Estimated Percent Work-Authorized <math>[(P(a_k))]</math></b>	<b>Estimated Number Work-Authorized</b>	<b>Sample Size for Cases Receiving Intensive Record Reviews</b>	<b>Stratum Number (<math>k</math>)</b>
<b>Citizens<sup>2</sup></b>						
SSA match confirmed citizenship status	N/A	22,162	100	22,162	*	1
Social Security number never issued	N/A	278	25	70	2	2
No match on name and/or date of birth	N/A	2,608	61	1,586	12	3
Noncitizen	N/A	501	79	396	31	4
<b>Total for citizens</b>	<b>N/A</b>	<b>25,549</b>	<b>95</b>	<b>24,214</b>	<b>45</b>	
<b>Noncitizens<sup>2</sup></b>						
INS outcome of work-authorized	N/A	1,824	100	1,824	*	5
Social Security number never issued	Matched	90	42	38	12	6
	Not matched	10	18	2	**	7
No match on name and/or date of birth	Matched	762	21	160	52	8
	Not matched	126	9	11	**	9
Noncitizen or citizenship unknown	Matched	1,781	68	1,206	53	10
	Not matched	159	29	46	**	11
<b>Total for noncitizens</b>		<b>4,752</b>	<b>69</b>	<b>3,287</b>	<b>117</b>	
<b>Unknown citizenship status</b>		<b>944</b>	<b>84</b>	<b>791</b>	<b>8</b>	<b>12</b>
<b>Grand Total</b>		<b>31,245</b>	<b>91</b>	<b>28,292</b>	<b>170</b>	

N/A = Not applicable.

<sup>1</sup> Calculations in this table are based on the weighted values of the Form I-9 cases. The total number of I-9 forms collected was 5,790.

<sup>2</sup> Citizenship status as listed on the I-9 form.

\* No cases were selected for intensive review, because work-authorization status was based on automated case review.

\*\* No cases were selected for intensive review, because it was not possible to locate hard-copy records for review without the CIS match.

Because of time limitations at the NRC, 42 selected cases were not reviewed.<sup>6</sup> In addition, the reviewers could not determine the work-authorization status of six reviewed cases. Thus, the final completed sample consisted of 170 cases (45 citizens and 125 noncitizens).

#### **4. ESTIMATION METHODOLOGY**

Since the intensive record review sample was not a random sample, the evaluation team analyzed the 611 noncitizen cases with both an I-9 form and a CAVP finding to determine how similar the sample was likely to be relative to other cases within the same stratum. The dependent variable for this analysis was the percentage of cases found to be work-authorized on the transaction database.

The analysis of the 611 noncitizen cases indicated that three variables (whether documents were attached to the I-9 form, whether the case appeared likely to be unauthorized on the basis of the employee's immigration status, and whether the case file was at the NRC) did not have statistically significant associations with case outcome. The evaluation team, therefore, assumed that the sampled cases adequately represented these cases. Sampled cases that were not reviewed were also assumed to have the same work-authorization rates as the reviewed sample cases, as is normally done in surveys.

The relationship between case outcome and CIS match status for noncitizens indicated that the work-authorization rates for those without a CIS match were lower than for those with a CIS match. This observation makes sense, since when noncitizens use counterfeit documents with information about nonexistent people, the information would not be on either the SSA or INS database; therefore, neither agency would be likely to verify the case. In other words, noncitizen cases that match one but not both of the databases are more likely than cases with matches on neither database to be cases with data entry errors or inaccurate Federal records rather than being cases that are not work-authorized. For estimation purposes, the evaluation team assumed that, based on the analysis of the 611 cases, the within-stratum work-authorization rate for those without CIS matches was 43 percent of the rate for the corresponding stratum of cases that were matched to the CIS (see Exhibit C-1).

There was no information on work-authorization outcomes for CAVP employees attesting to being U.S. citizens comparable to what was available for noncitizens. It was, therefore, assumed that the variables that did not affect outcomes for noncitizens would also not affect outcomes for citizens. However, the evaluation team did not consider the presence or absence of a CIS record for cases attesting to U.S. citizenship to provide the same predictive value for likely work-authorization as was true for noncitizens, since most U.S. citizens do not have CIS records. Thus, citizens were not stratified by CIS match status when estimating work-authorization rates.

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<sup>6</sup> The INS evaluators believe that these omitted cases were similar to the cases from the original sample.

The calculations of the work-authorization status rates for citizens and noncitizens are summarized in Exhibit C-1. Since the sample sizes for some strata are quite small, they are subject to considerable error. Based on the assumptions made, the 95 percent confidence interval for the percentage of Form I-9 cases attesting to U.S. citizenship that are unauthorized is between 2 and 8 percent. For noncitizens, the range is from 26 to 34 percent. For the total Form I-9 sample, it is 6 to 12 percent.

To obtain some idea of the plausibility of the estimate that 61 percent of stratum 3 cases were work-authorized, the evaluation team examined information from the Basic Pilot program. In that program, 38 percent of the total citizen and noncitizen cases without an initial SSA match on date of birth and/or name were eventually found to be work-authorized. The actual work-authorization rate for these Basic Pilot cases would certainly have been higher if all of these cases had been resolved. The comparable statistic for the CAVP was 50 percent, which does not appear to be unreasonable, given the Basic Pilot results.<sup>7</sup> A second logic test of the estimated work-authorization rate for citizens was obtained from an examination of the rate for noncitizens. The work-authorization rates for employees claiming to be citizens on the I-9 form are consistently higher than those for comparable noncitizens. For example, the observed rate for noncitizens without a name and/or date of birth match on the SSA database, which is based on 52 cases, is 21 percent, compared to 61 percent for citizens without a name and/or date of birth match on the SSA database (based on 12 cases).

The calculations discussed in this section can be summarized using mathematical formulas, as described below.

The estimated percentage of employees with I-9 forms in their employers' files who would have been classified as work-authorized by the CAVP (noncitizens) or the Basic Pilot (citizens) is

$$P^w(a_*) = \sum_k W_k \cdot P(a_k), \quad (1)$$

where

$P(a_k)$  = the estimated percentage actually work-authorized within stratum  $k$ , seen in Exhibit C-1, and

$W_k$  = the proportion of cases in stratum  $k$ , seen in Exhibit C-1.

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<sup>7</sup> This analysis was based on the total rate rather than the rate for those attesting to being U.S. citizens, because Form I-9 citizenship status was not included on the transaction database.

The estimated percentage of work-authorized employees within stratum  $k$  [ $P(a_k)$ ] is computed as

$$\frac{\sum_i W_{ik} I_{ik} A_{ik}}{\sum_i W_{ik} I_{ik}}, \quad (2)$$

where

- $W_{ik}$  = the weight for the  $i^{\text{th}}$  Form I-9 case in stratum  $k$ ;
- $I_{ik}$  = 1 when the  $i^{\text{th}}$  Form I-9 case in stratum  $k$  is included in the sample and  
= 0 when it is not included in the sample; and
- $A_{ik}$  = 1 if the  $i^{\text{th}}$  case in the  $k^{\text{th}}$  stratum was found to be work-authorized and  
= 0 if it was not found to be work-authorized.

The weight for each case is equal to the product of the on-site weight ( $W^O_{ik}$ ) and the Form I-9 weights ( $W^F_{ik}$ ) for the case; that is,

$$W_{ik} = W^O_{ik} \bullet W^F_{ik}. \quad (3)$$

Using the stratum numbers in Exhibit C-1, for strata 1 and 5,  $P(a_k) = 1$  (i.e., all cases are assumed to be work-authorized). For strata 7, 9, and 11,  $P(a_k) = 0.43 \bullet P(a_{k-1})$  (i.e., the work-authorization rate is assumed to be 43 percent of the rate in the preceding stratum that differs from stratum  $k$  only on its CIS match status).<sup>8</sup>

### C. MODEL-BASED ESTIMATION

The second technique used to estimate work-authorization rates<sup>9</sup> for noncitizens was based on a model developed for this purpose. The model was based on the observed relationship between the initial findings of the Immigration Status Verifier (ISV) and final case resolution (i.e., authorized, not authorized, or final nonconfirmation). The model also included assumptions that have not been empirically tested.

The model permits estimation of the percentage of final nonconfirmation cases that are work-authorized. To obtain this estimated value, the user inputs estimates of the following into the model: (1) the rate at which employers notify employees of tentative nonconfirmation findings and (2) the percentage of *work-authorized* employees who contest a tentative nonconfirmation finding.

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<sup>8</sup> The 43 percent is the average within-stratum observed ratio of the transaction database work-authorization rate for noncitizen cases without CIS matches to noncitizen cases with CIS matches among the 611 Form I-9 cases on the transaction database.

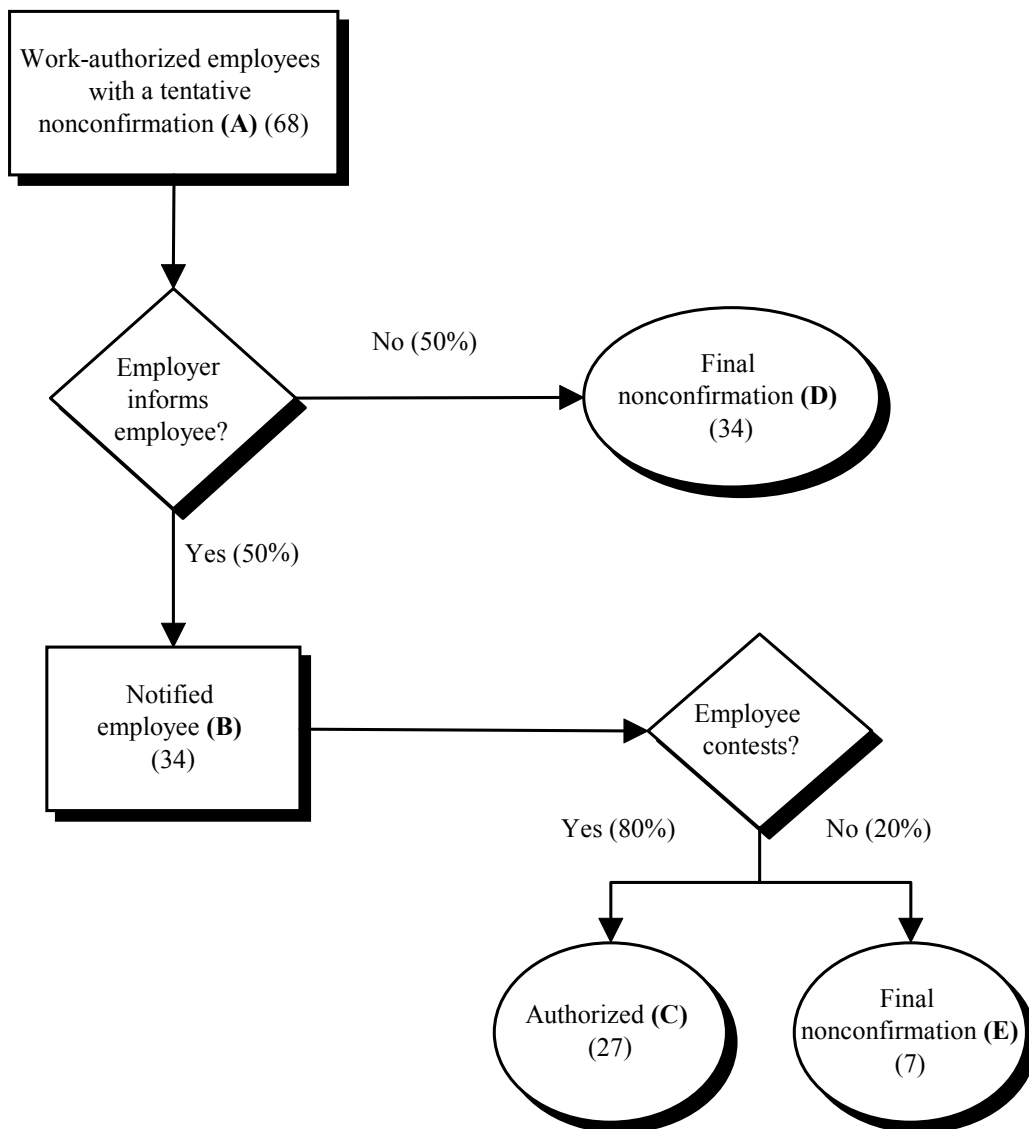
<sup>9</sup> In order to simplify the explanation of the model, employees who were or would have been authorized by the system are referred to as work-authorized. In reality, as discussed in the text, some cases determined to be work-authorized are not actually work-authorized, due to fraud.

## 1. ESTIMATES

The basic model for cases in which INS issues a tentative nonconfirmation is illustrated for one stratum in Exhibit C-2. The bold letters in parentheses are for reference purposes in the example below.

The goal of the model is to estimate how many of the INS final nonconfirmation cases would have been found to be work-authorized if they had been resolved, given what is known about the cases and a set of assumptions.

### Exhibit C-2: CAVP Process Between INS Tentative Nonconfirmation and Final Determination for Work-Authorized Noncitizens with a Preliminary Finding of Expired Document\*



\* The numbers refer to employees whom ISVs place in the "cannot confirm" category and assume that 50 percent of employees are informed of the tentative nonconfirmation and that 80 percent of work-authorized employees contest the tentative nonconfirmation.



Since there is insufficient empirical information for estimating how many work-authorized cases are in the final nonconfirmation category, it is necessary to make additional assumptions to estimate the number of final nonconfirmation cases that would have been determined to be work-authorized by the CAVP system if all cases had been resolved. The assumptions used are described below.

1. The probability that an INS final nonconfirmation case is actually work-authorized is dependent upon the ISV's initial case finding. For example, it seems reasonable to believe that there are a higher percentage of work-authorized individuals among those initially rejected because their documents had expired than among those whom the ISV believed to have counterfeit documents. The reasonableness of this assumption is consistent with the data on the percentage of individuals within each category who contested tentative nonconfirmations. Since work-authorized employees are presumably more likely to contest than are non-work-authorized employees, a higher rate of contesting in the first category than the second would be expected. This is indeed the case. Among tentative nonconfirmation cases in the first category, 36 percent contested the tentative nonconfirmation, compared to fewer than 7 percent in the second category (see Exhibit C-3). This assumption requires separate estimation of the number of work-authorized individuals within each INS initial category. Exhibit C-2, therefore, depicts cases in which the ISV had initially determined that the person's work authorization had expired.
2. The percentage of employees informed by their employers of an INS tentative nonconfirmation does not depend upon the reason for issuing the tentative nonconfirmation. For example, employees with suspected counterfeit documents are no more or less likely to be informed than are employees believed to have expired documents. Although this may not be the case, the evaluation team was unable to come up with a more reasonable assumption. The user can estimate this percentage, so that alternate scenarios can be tested. In Exhibit C-2, this is the probability that the employee will move from **(A)** to **(B)**. The illustration assumes that the user set this to 50 percent.
3. The percentage of *work-authorized* employees contesting INS tentative nonconfirmations does not depend upon the ISV's stated reason for issuing the tentative nonconfirmation. For example, work-authorized employees classified as "cannot confirm" are no more or less likely to contest than are employees classified as unauthorized. The user can estimate this percentage, so that alternate scenarios can be tested. In Exhibit C-2, this is the probability that the employee will move from **(B)** to **(C)**. The illustration assumes that the user set this to 80 percent.

**Exhibit C-3: Authorization Rates for INS Tentative Nonconfirmation Cases, by Initial ISV Finding**

Initial ISV Finding Resulting in Tentative Nonconfirmation	Final Case Disposition			Total	Percent of Tentative Cases Found to Be Authorized
	Number Unauthorized	Number of Final Nonconfirmations	Number Authorized		
Unauthorized	1	38	2	41	4.9
Expired document	6	92	27	125	21.6
Counterfeit document	11	3,339	16	3,366	0.5
Cannot confirm authorization status	26	2,061	446	2,533	17.6
<b>Total</b>	<b>44</b>	<b>5,530</b>	<b>491</b>	<b>6,065</b>	<b>8.1</b>

The number of employees determined to be work-authorized for a given initial ISV finding is known. For example, 27 cases classified as expired document cases were authorized (C).

The number of authorized cases (C) is equal to the product of the number of contested cases (B) and the probability that a work-authorized case will be contested. The probability that a work-authorized employee will contest is a user-driven input. For illustrative purposes, assume that an estimated 80 percent of work-authorized employees will contest an INS tentative nonconfirmation. This means that  $(C) = 0.8 * (B)$ . This is equivalent to  $(B) = (C)/0.8$ . In the example,  $(B) = 27/0.8 = 34$ .

The number of employees who were informed of the tentative nonconfirmation can be estimated in a similar fashion, given the user-input assumption of the percentage of work-authorized employees with tentative nonconfirmations who are informed of their status. Continuing with the example and assuming that 50 percent of employees with INS tentative nonconfirmations were notified, the number of work-authorized employees can be estimated as  $(A) = (B)/0.5 = 68$ . Thus, the model estimates that the CAVP would have found 68 expired document cases to be authorized if all employees had been properly notified and had chosen to contest their cases.

**2. RANGE ESTIMATION**

To obtain a preliminary estimate of the range of possible values for the percentage of unauthorized employees, two scenarios were tested. In the first, all of the user-input parameters were set to 100 percent. This scenario assumes that all work-authorized individuals have already been identified by the system. As expected, this results in an estimate of the percentage unauthorized of 38 percent. This is the maximum value.

To obtain a reasonable minimum value, the evaluation team assumed that the percentage of informed tentative nonconfirmation cases is set to 31 percent and the percentage of work-authorized notified employees who contest is set to 70 percent. Under the assumptions of the model, rates lower than these would be inconsistent with the observed

rates of resolved cases for one or more of the INS categories. In this situation, the estimated percentage of unauthorized cases is 26 percent. Thus, the estimated range is 26 to 38 percent.

The tentative nonconfirmation cases were assigned to  $k$  strata, based on the reason they were classified as tentative nonconfirmations (see Exhibit C-3).

Assuming that a work-authorized finding occurs only when work-authorized employees are told that they have tentative nonconfirmations and when the employees contest their cases, the observed percentage of work-authorized cases in stratum  $k$  can be defined as described below:

The total number of work-authorized employees is equal to

$$N_{\bullet}^{WT} = \sum_k N_k^{WV} + N_{\bullet}^{WI}, \quad (4)$$

where

$N_{\bullet}^{WT}$  = the total number of work-authorized employees in the population;

$N_k^{WV}$  = the number of work-authorized employees who received tentative nonconfirmations in stratum  $k$ ; and

$N_{\bullet}^{WI}$  = the total number of work-authorized employees in the population who were resolved as work-authorized without a tentative nonconfirmation.

Since  $N_{\bullet}^{WI}$  is observed,  $N_{\bullet}^{WT}$  can be estimated from an estimate of  $\sum_k N_k^{WV}$ .

A formula for estimating  $N_k^{WV}$  can be derived by solving the following equation for  $N_k^{WR}$ :

$$N_k^{WR} = N_k^{WV} \bullet t_k \bullet c_k, \quad (5)$$

where

$N_k^{WR}$  = the number of tentative nonconfirmations in stratum  $k$  that were resolved as work-authorized;

$t_k$  = the percentage of work-authorized employees with tentative nonconfirmations who were told of the tentative nonconfirmation; and

$c_k$  = the percentage of work-authorized employees told of a tentative nonconfirmation who contested and resolved the finding.

Equation (5) can be solved for  $N_k^{WV}$  as follows:

$$N_k^{WV} = N_k^{WR} / t_k \bullet c_k. \quad (6)$$

The maximum value of  $N_k^{WV}$  is the total number of tentative nonconfirmations in stratum  $k$  ( $N_k^{TV}$ ). This maximum occurs when  $t_k \bullet c_k = N_k^{WR} / N_k^{TV}$ :

$$N_k^{WV} = N_k^{WR} / (N_k^{WR} / N_k^{TV}),$$

which is equivalent to

$$N_k^{WV} = N_k^{WR} \bullet N_k^{TV} / N_k^{WR}.$$

Further, the value of  $(t_k \bullet c_k)$  cannot be greater than 1, since both  $t_k$  and  $c_k$  are proportions.

Thus, the range of  $t_k \bullet c_k$  is given as

$$(N_k^{WR} / N_k^{TV}) \geq t_k \bullet c_k \geq 1. \quad (7)$$

To simplify the model, assume that the initial reason for receiving the tentative nonconfirmation affects neither the probability that the employer will tell the work-authorized employee of the tentative nonconfirmation nor the probability that the employee will contest the finding after being informed. In this situation,  $t_k$  and  $c_k$  are constant across strata (i.e.,  $t_k \bullet c_k = t \bullet c$  for all  $k$ ).

Given this assumption, equation (6) becomes

$$N_k^{WV} = N_k^{WR} / t \bullet c, \quad (8)$$

and summing both sides of the equation leads to

$$\sum_k N_k^{WV} = \sum_k N_k^{WR} / t \bullet c \text{ and} \quad (9)$$

$$\sum_k N_k^{WV} = (1/t \bullet c) \bullet \sum_k N_k^{WR}. \quad (10)$$

$\sum_k N_k^{WR}$  is known and is equal to 491 (Exhibit C-3).

Based on the information in Exhibit C-3 and equation (7),  $t \bullet c$  can range from 0.261 to 1.

Therefore, the possible range for  $\sum_k N_k^{WV}$  is 491 to 2,273 ( $491/0.216$ ), according to the model.

The range for  $N_{\bullet}^{WT}$ , as given by equation (4), is 8,930 (8,439 + 491) to 10,712 (8,439 + 2,273).

Expressing this range as a percentage of the total population (14,504), the estimated range for the percentage of the CAVP cases that are work-authorized is 62 to 74 percent and the range for the percentage not work-authorized is 26 to 38 percent.

The evaluation team used a “best guess” estimate that 50 percent of noncitizen employees were informed of the tentative nonconfirmation in a way they could understand and that 80 percent of *work-authorized* employees receiving tentative nonconfirmations contested their cases. This resulted in an estimate that 33 percent of the noncitizen employees screened by the CAVP would have been found not to be work-authorized if all final nonconfirmation cases had been resolved. This is, of course, quite similar to the estimate computed from the record review study (31 percent). Since there is reason to believe that the cases in the record review study underestimate the percentage of cases without work authorization, the evaluation team assumed that the higher (model-based) estimate was more accurate and used it in subsequent calculations restricted to noncitizens. Estimates requiring information about both citizens and noncitizens were based on the Form I-9 reviews. However, both estimates must be viewed as only approximate, and the statistics derived from these estimates are similarly approximate.<sup>10</sup>

#### **D. ESTIMATED WORK-AUTHORIZATION RATES FOR THE MODIFIED CAVP PROGRAM**

As explained in Chapter IV, in implementing the CAVP, INS deviated from the confirmation and verification procedures established by IIRIRA, which required matching cases against the SSA database as well as the INS file. The evaluation team estimated the results of introducing a match with the SSA database prior to checking cases against the ASVI.

Since SSA was not officially a participant in the CAVP, it was precluded under the Privacy Act from providing information on specific individuals to the evaluation team. However, SSA provided the evaluation team with aggregate statistics, indicating SSA match results for each INS transaction database outcome category. The evaluation team used this information to classify the cases by what the SSA outcome for these cases would have been, using the match criteria used in the Basic Pilot program. Cases were assumed to be work-authorized if the transaction database information from the Form I-9 matched the SSA database and if the SSA record indicated that the person was a citizen or a lawful permanent resident. In the Basic Pilot program, cases not matched by SSA would be issued a tentative nonconfirmation. Cases that matched but had a citizenship status other than lawful permanent resident were sent to INS for further investigation. The results of this analysis are presented in Exhibit IV-3.

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<sup>10</sup> Section B discusses the likely bias in the record review estimate.

The accuracy of the classifications in Exhibit IV-3 is limited by two factors. First, the SSA match was not done until August 2002, while the original INS match was done no later than October 2001. It is, therefore, possible that some of the cases found to be work-authorized on the SSA match would not have had that finding if they had been screened at the same time as the INS database check was made.

A second limitation to the estimates of the work-authorized findings from matching CAVP transaction database employees against the SSA database was that among the 6,123 cases that INS had authorized on the preliminary INS database match, only 260 had sufficient information that they could be meaningfully matched against the SSA database. This lack of information is attributable to a failure of the CAVP database to retain identifying information submitted by employers. The distribution for SSA findings of cases without identifying information was assumed to be the same as for the 260 matched cases automatically matched with SSA.

To estimate the final outcome of cases subjected to an SSA match prior to the INS match, the evaluation team assumed that cases verified by SSA under the Basic Pilot rules would be found to be “work-authorized” in the CAVP. When the SSA match did not verify cases, the evaluation team assumed that they would then be reviewed by the current CAVP procedures. In this case, the case outcome was assumed to be the actual outcome of the CAVP program. The results are presented in Exhibit IV-4. Note that the results would have been different if the evaluation team had made alternate assumptions about the process of the modified program. For example, an alternative to the program examined would be one in which SSA issued tentative nonconfirmations when there is not a valid SSA match, as is done in the Basic Pilot program.

## Appendix D

### Supplemental Information on Characteristics of Pilot States, Communities, Employers, and Employees





## **APPENDIX D. SUPPLEMENTAL INFORMATION ON CHARACTERISTICS OF PILOT STATES, COMMUNITIES, EMPLOYERS, AND EMPLOYEES**

This appendix is designed to supplement Chapter II by presenting more detailed information on the characteristics of establishments participating in the Citizen Attestation Verification Pilot (CAVP), the five CAVP States, and the Nation. In evaluating pilot programs, it is important to understand their environment to have a better understanding of the context in which a program is implemented.

Environmental context is of particular concern when determining the impact of a larger scale program, if one were to be proposed. For example, a pilot program might be cost-effective only when certain conditions are present, such as the automated management information systems used by large businesses. Policymakers may then use the information to refine the system, either by limiting a pilot program to certain employer groups or by modifying the procedures employers use.

Only by understanding these contextual issues can the evaluation team identify the effects of this pilot program on factors such as employer targeting of immigrants for recruitment or the extent of hiring discrimination. Chapter II highlights the characteristics of the States in which the CAVP program is being conducted and describes the employers enrolled in the CAVP program. Because the number of characteristics is extensive, the chapter focuses on those that the evaluation team believes to be the most relevant, and this appendix provides additional information likely to be of interest to some readers.

### **A. STATE CHARACTERISTICS**

#### **1. BACKGROUND**

The CAVP pilot program was required by statute to target at least five States having driver's licenses or nondriver identification cards that met certain standards. However, any employer in a target State that agreed to participate in the pilot was also permitted to enroll its establishments that were located in other States. Therefore, it is possible to find responding establishments from other States among participating establishments. Most pilot establishments, however, are located in the five CAVP States. Among the 105 establishments responding to the employer mail survey, 77 establishments (73 percent) were located in the five target States<sup>1</sup> and 28 establishments were located in 12 other States. This appendix focuses on the characteristics of the five primary CAVP States where most participating establishments are located.

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<sup>1</sup> Twenty-nine CAVP establishments were in Arizona, 11 were in Maryland, 13 were in Massachusetts, 10 were in Michigan, and 14 were in Virginia.

## 2. STATE SIZE

Exhibit D-1 shows the proportion of the U.S. population, establishments, and the unemployed population in each of the five CAVP target States. Together, the five CAVP States comprise about 12 percent of the population, business establishments, and the unemployed. Among the five States, Michigan has the largest proportion of the Nation's residents, while Arizona has the smallest. These two States are also the largest and smallest, respectively, in terms of business establishments.

### Exhibit D-1: Percentage of Population, Establishments, and Unemployment in the Five CAVP States and the United States: 1999

	CAVP States					All CAVP States	U.S.
	AZ	MD	MA	MI	VA		
Population	1.8	1.9	2.3	3.5	2.5	12.0	100
Establishments	1.6	1.8	2.5	3.4	2.5	11.8	100
Unemployment	1.7	1.8	2.7	3.6	2.5	12.3	100

SOURCE: U.S. Census Bureau, *Statistics of U.S. Businesses, 1999*.

## 3. UNDOCUMENTED RESIDENT POPULATION

The CAVP States ranked high in the estimated number of resident undocumented immigrants, though not as high as the Basic Pilot States (see Exhibit D-2). All of the CAVP States were included among the 18 States with the highest numbers of undocumented immigrants in 2000.<sup>2</sup> However, a much lower percentage of the undocumented U.S. immigrant population resides in the CAVP States than in the Basic Pilot States (9 percent versus 64 percent).

In addition to comparing States on the number of undocumented immigrants, it is possible to compare them on the concentration of undocumented immigrants in their population, that is, the percentage of their population who are undocumented immigrants. Indeed, the employer's likelihood of encountering a large number of undocumented immigrants is probably associated more strongly with the percentage of undocumented immigrants in the population than with the total number of such persons. Using this criterion, the concentration of undocumented immigrants in the five Basic Pilot States, as a group, is 4.4 percent, compared to 1.8 percent for the CAVP States and 1.3 percent for the non-pilot States. However, looking at the individual States within each of the categories shows considerable variation. For example, Arizona, a CAVP State, has a concentration of undocumented immigrants (5.5 percent) that is higher than that in any of the Basic Pilot States other than California (6.5 percent). Similarly, Nevada, a non-pilot

<sup>2</sup> Exhibit D-2 shows data for 2000, to reflect the situation at the time of data collection. However, the CAVP States were selected before 2000, when the concentration of undocumented immigrants in the pilot States was even greater. In 1996, the proportion of undocumented U.S. immigrants who resided in CAVP States was 6.7 percent, less than one-tenth that in the Basic Pilot States (77.7 percent).

State, has a greater concentration of undocumented immigrants (5.1 percent) than any of the CAVP States except for Arizona.

**Exhibit D-2: Estimated Undocumented Immigrant Population Residing in the Basic Pilot States, CAVP States, Non-pilot States, and the United States: 2000**

States	Total State Population	Total Undocumented Population in State	Percent of State Population Who Are Undocumented Immigrants	Percent of All Undocumented Immigrants Residing in State
<b>Basic Pilot States</b>				
California	33,871,648	2,209,000	6.5	31.6
Florida	15,982,378	337,000	2.1	4.8
Illinois	12,419,293	432,000	3.5	6.2
New York	18,976,457	489,000	2.6	7.0
Texas	20,851,820	1,041,000	5.0	14.9
<b>Total</b>	<b>102,101,596</b>	<b>4,508,000</b>	<b>4.4</b>	<b>64.4</b>
<b>CAVP States</b>				
Arizona	5,130,632	283,000	5.5	4.0
Maryland	5,296,486	56,000	1.1	0.8
Massachusetts	6,349,097	87,000	1.4	1.2
Michigan	9,938,444	70,000	0.7	1.0
Virginia	7,078,515	103,000	1.5	1.5
<b>Total</b>	<b>33,793,174</b>	<b>599,000</b>	<b>1.8</b>	<b>8.6</b>
<b>Non-pilot States</b>				
Colorado	4,301,261	144,000	3.3	2.1
Nevada	1,998,257	101,000	5.1	1.4
New Jersey	8,414,350	221,000	2.6	3.2
Washington	5,894,121	136,000	2.3	1.9
Remaining States	128,727,757	1,291,000	1.0	18.4
<b>Total</b>	<b>149,335,746</b>	<b>1,893,000</b>	<b>1.3</b>	<b>27.0</b>
<b>U.S.</b>	<b>285,230,516</b>	<b>7,000,000</b>	<b>2.5</b>	<b>100.0</b>

SOURCES: U.S. Census Bureau, Census 2000; and U.S. Immigration and Naturalization Service, *Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000*, January 2003.

#### 4. FOREIGN-BORN POPULATION

According to the 2000 U.S. Census, the distribution of the total foreign-born population is quite similar to that of the undocumented resident population (see Exhibit D-3). The concentration of the foreign-born population in the five CAVP States (9 percent) is in between the concentrations in the five Basic Pilot States (19 percent) and the non-pilot States (5 percent).

**Exhibit D-3: Foreign-Born Population of the Basic Pilot States, CAVP States, Non-pilot States, and the United States: 2000**

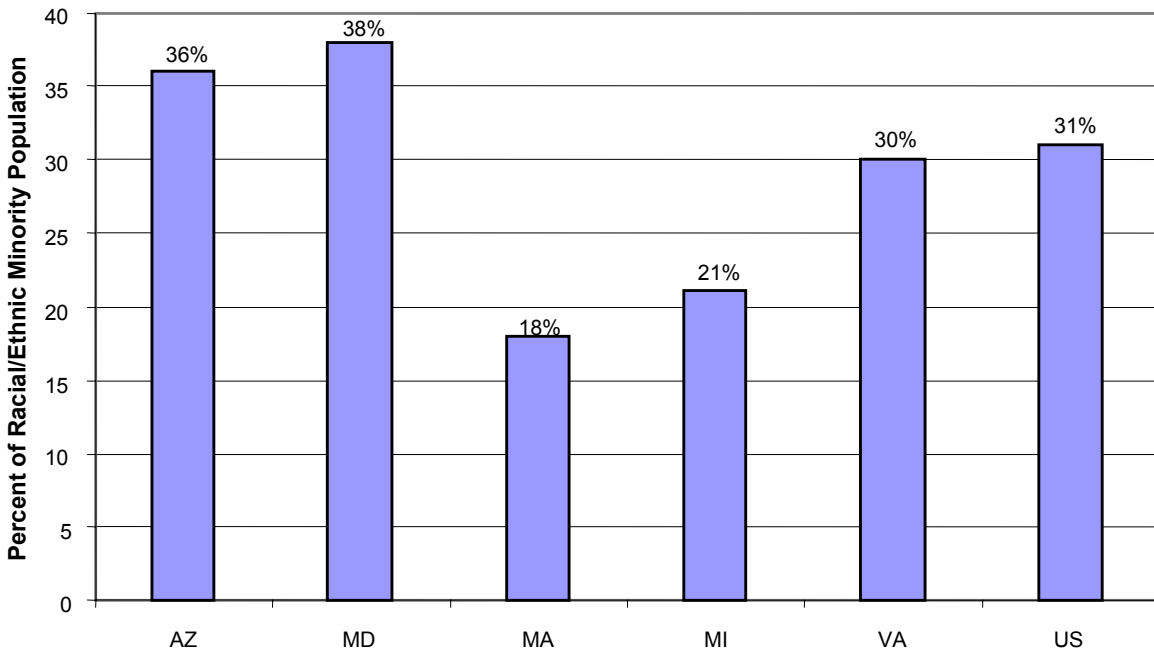
States	Total State Population	Total Foreign-Born Population in State	Percent of State Population Who Are Foreign-Born	Percent of U.S. Foreign-Born Population Residing in State
Basic Pilot States				
California	33,871,648	8,864,255	26.2	3.1
Florida	15,982,378	2,670,828	16.7	0.9
Illinois	12,419,293	1,529,058	12.3	0.5
New York	18,976,457	3,868,133	20.4	1.4
Texas	20,851,820	2,899,642	13.9	1.0
<b>Total</b>	<b>102,101,596</b>	<b>19,831,916</b>	<b>19.4</b>	<b>7.0</b>
CAVP States				
Arizona	5,130,632	656,183	12.8	0.2
Maryland	5,296,486	518,315	9.8	0.2
Massachusetts	6,349,097	772,983	12.2	0.3
Michigan	9,938,444	523,589	5.3	0.2
Virginia	7,078,515	545,046	7.7	0.2
<b>Total</b>	<b>33,793,174</b>	<b>3,016,116</b>	<b>8.9</b>	<b>1.1</b>
Non-pilot States				
Colorado	4,301,261	369,903	8.6	0.1
Nevada	1,998,257	316,593	15.8	0.1
New Jersey	8,414,350	1,476,327	17.5	0.5
Washington	5,894,121	614,457	10.4	0.2
Remaining States	128,727,757	4,038,662	3.1	1.4
<b>Total</b>	<b>149,335,746</b>	<b>6,815,942</b>	<b>4.6</b>	<b>2.4</b>
<b>U.S.</b>	<b>285,230,516</b>	<b>29,663,974</b>	<b>10.4</b>	<b>10.4</b>

SOURCES: U.S. Census Bureau, Census 2000; and U.S. Immigration and Naturalization Service, *Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000*, January 2003.

## 5. RACIAL/ETHNIC COMPOSITION

According to the 2000 U.S. Census, 31 percent of the U.S. population is classified as a racial or ethnic minority.<sup>3</sup> The proportion of racial and ethnic minorities in Arizona and Maryland slightly exceeds the national average, while the proportion in Massachusetts and Michigan is slightly below the U.S. average. Virginia is almost identical to the national average (see Exhibit D-4).

**Exhibit D-4: Proportions of Racial/Ethnic Minorities in the Five CAVP States and the United States: 2000**



SOURCE: U.S. Census Bureau, Census 2000

NOTE: Racial/ethnic minorities are persons who are nonwhite Hispanics or other nonwhites.

As a rapidly growing ethnic group, the Hispanic population is of special interest in contemporary U.S. society, particularly in terms of immigration policies. According to the 2000 Census, 14 percent of the U.S. population is of Hispanic origin. The proportion of the Hispanic population in the five CAVP States is approximately the same as in the non-pilot States (8 percent), but less than in the Basic Pilot States (24 percent) (see Exhibit D-5).

<sup>3</sup> Racial/ethnic minorities are persons who are nonwhite Hispanics or other nonwhites.

**Exhibit D-5: Population of Hispanic Origin in the Basic Pilot States, CAVP States, Non-pilot States, and the United States: 2000**

<b>States</b>	<b>Total State Population</b>	<b>Total Hispanic Population in State</b>	<b>Percent of State Population Who Are Hispanic</b>	<b>Percent of U.S. Hispanic Population Residing in State</b>
<b>Basic Pilot States</b>				
California	33,871,648	10,966,556	32.4	28.1
Florida	15,982,378	2,682,715	16.8	6.9
Illinois	12,419,293	1,530,262	12.3	3.9
New York	18,976,457	2,867,583	15.1	7.3
Texas	20,851,820	6,669,666	32.0	17.1
<b>Total</b>	<b>102,101,596</b>	<b>24,716,782</b>	<b>24.2</b>	<b>63.3</b>
<b>CAVP States</b>				
Arizona	5,130,632	1,295,617	25.3	3.3
Maryland	5,296,486	227,916	4.3	0.6
Massachusetts	6,349,097	428,729	6.8	1.1
Michigan	9,938,444	323,877	3.3	0.8
Virginia	7,078,515	329,540	4.7	0.8
<b>Total</b>	<b>33,793,174</b>	<b>2,605,679</b>	<b>7.7</b>	<b>6.7</b>
<b>Non-pilot States</b>				
Colorado	4,301,261	735,601	17.1	1.9
Nevada	1,998,257	393,970	19.7	1.0
New Jersey	8,414,350	1,117,191	13.3	2.9
Washington	5,894,121	441,509	7.5	1.1
Puerto Rico	3,808,610	3,762,746	98.8	9.6
Remaining States	124,919,147	5,295,086	4.2	13.6
<b>Total</b>	<b>149,335,746</b>	<b>11,746,103</b>	<b>7.9</b>	<b>30.1</b>
<b>U.S.</b>	<b>285,230,516</b>	<b>39,068,564</b>	<b>13.7</b>	<b>100.0</b>

SOURCES: U.S. Census Bureau, Census 2000; and U.S. Immigration and Naturalization Service, *Estimates of the Unauthorized Immigrant Population Residing in the United States: 1990 to 2000*, January 2003.

**6. POPULATION DENSITY**

Overall, the five CAVP States are more densely populated than the United States considered as a whole. For example, the population density for Massachusetts is 10 times that of the United States (810 versus 80 persons per square mile), while Arizona's

population density (45 persons per square mile) is equivalent to approximately half the density of the United States. The other three States range in population density from 175 to 542 persons per square mile, compared to the United States density of 80 persons (see Exhibit D-6).

**Exhibit D-6: Population Density for the Five CAVP States and the United States: 2000**



SOURCE: U.S. Census Bureau, 2000.

## **B. COMMUNITY CHARACTERISTICS**

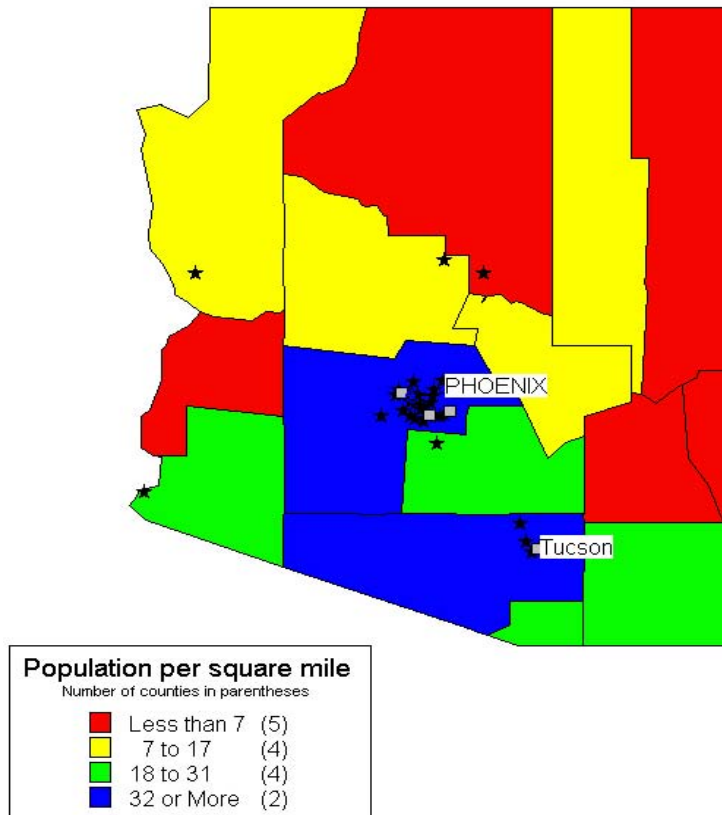
Pilot establishments are clustered in and around large urban areas within CAVP States (Exhibits D-7 through D-11). More specifically, they are clustered around Phoenix, the greater Baltimore and Washington, DC, area, Detroit and Grand Rapids, and Boston.

## **C. EMPLOYER CHARACTERISTICS**

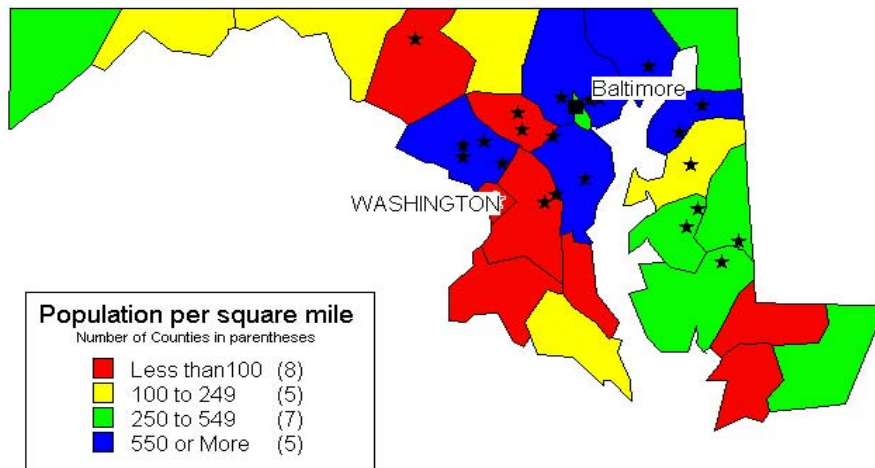
### **1. ESTABLISHMENT SIZE**

The five CAVP States have a higher proportion of large employers than the Nation overall (see Exhibit D-12). Nineteen percent of establishments in the five CAVP States have more than 500 employees, compared with 0.3 percent nationwide. However, only 3.5 percent of establishments in the five CAVP States have fewer than 20 employees, even though they constitute 81.4 percent of the establishments in the United States. The underrepresentation of small employers in the CAVP is understandable, considering that smaller employers do not have a great need for electronic verification and may not have the technical resources to set up and maintain the program.

**Exhibit D-7: Location of INS Pilot Firms and Population Density, Arizona, by County**

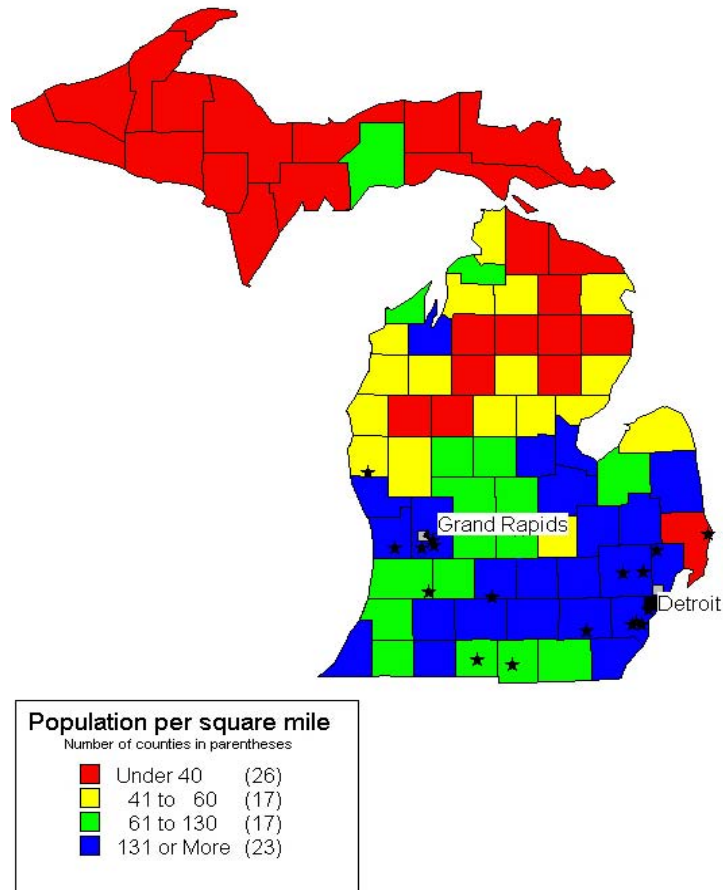


**Exhibit D-8: Location of INS Pilot Firms and Population Density, Maryland, by County**

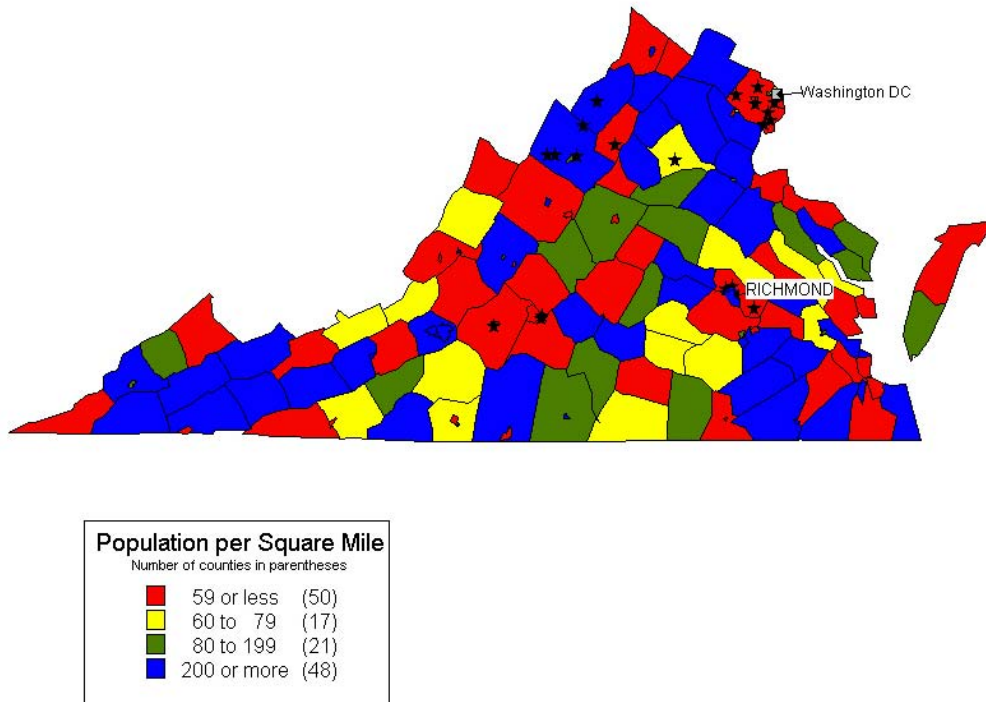




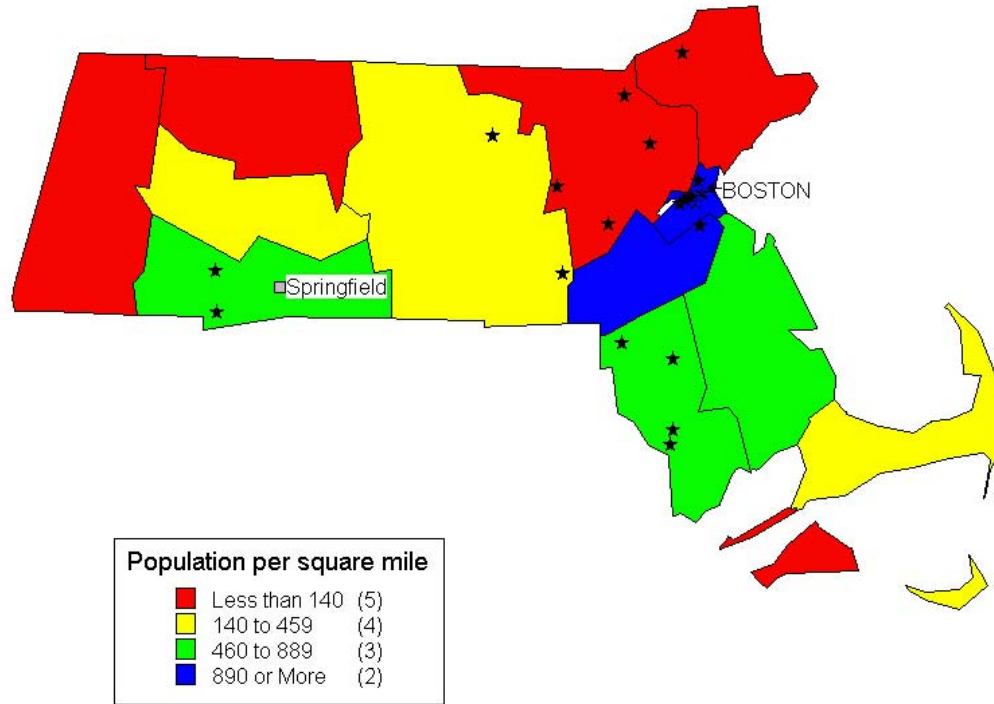
**Exhibit D-9: Location of INS Pilot Firms and Population Density, Michigan, by County**



**Exhibit D-10: Location of INS Pilot Firms and Population Density, Virginia, by County**



**Exhibit D-11: Location of INS Pilot Firms and Population Density, Massachusetts, by County**



**Exhibit D-12: Distribution of Establishments by Number of Employees in the Five CAVP States and the United States: 1999**

Number of Employees	Percent of Establishments	
	CAVP States	United States
1-4	1.0	50.2
5-9	1.0	19.2
10-19	1.5	12.0
20-99	28.0	12.5
100-499	49.5	5.8
500+	19.0	0.3
<b>Total</b>	<b>100.0</b>	<b>100.0</b>

SOURCE: U.S. Census Bureau, *Statistics of U.S. Businesses, 1999*.

## 2. INDUSTRIES

CAVP establishments are concentrated in four industries: retail trade, construction, professional, and health care. As for the Nation as a whole, the highest concentration of industries in the five CAVP States can be found in the retail trade industry. Industry concentrations are also somewhat comparable across the five CAVP States and the Nation (see Exhibit D-13).

**Exhibit D-13: Percentage Distribution of Establishments by Industry for the Five CAVP States and the United States: 1999**

Industry	Percent in CAVP States					Total	United States
	AZ	MD	MA	MI	VA		
Agriculture	0.2	0.2	0.2	0.3	0.4	0.3	0.4
Mining	0.2	0.1	0.1	0.2	0.2	0.1	0.3
Utilities	0.2	0.1	0.2	0.2	0.2	0.2	0.2
Construction	11.0	11.6	9.2	11.3	11.6	10.9	10.0
Manufacturing	4.4	3.1	5.4	6.7	3.4	4.9	5.1
Wholesale	6.0	4.9	5.7	5.8	4.6	5.4	6.4
Retail trade	14.8	15.4	15.0	16.6	16.6	15.8	15.9
Transportation	2.2	2.6	2.0	21.0	2.7	2.3	2.7
Information	1.7	1.8	2.1	1.5	1.9	1.8	1.8
Finance	6.2	5.7	5.1	5.4	5.8	3.9	6.0
Real estate	5.4	4.2	3.4	3.6	4.0	4.0	4.3
Professional	10.5	12.7	11.9	8.9	11.8	10.9	10.1
Management	0.7	0.6	0.6	0.6	0.7	0.6	0.7
Administrative	6.1	5.7	5.4	4.9	5.3	5.4	5.0
Educational	1.1	1.2	1.2	0.8	1.0	1.0	1.0
Health care	9.6	10.2	19.5	9.8	8.3	9.5	9.3
Arts	1.2	1.4	1.5	1.4	1.3	1.4	1.5
Accommodation	8.1	6.9	8.4	7.8	7.2	7.7	7.7
Other services	8.8	10.4	9.7	10.6	11.5	10.3	10.2
Auxiliaries	0.2	0.2	0.2	0.2	0.2	0.2	0.2
Unclassified	1.6	1.3	3.4	1.3	1.3	1.8	1.4
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

SOURCE: U.S. Census Bureau, *Statistics of U.S. Businesses, 1999*.

However, Michigan and Massachusetts are the exceptions. Twenty-one percent of the CAVP establishments in Michigan are concentrated in transportation, while the range for that industry among the four other CAVP States is 2 to 3 percent. Similarly, 20 percent of the CAVP establishments in Massachusetts are concentrated in health care, while the range for that industry is 8 to 10 percent in the four other CAVP States.



Appendix E

Form I-9



## Employment Eligibility Verification

### INSTRUCTIONS

PLEASE READ ALL INSTRUCTIONS CAREFULLY BEFORE COMPLETING THIS FORM.

**Anti-Discrimination Notice.** It is illegal to discriminate against any individual (other than an alien not authorized to work in the U.S.) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

**Section 1 - Employee.** All employees, citizens and noncitizens, hired after November 6, 1986, must complete Section 1 of this form at the time of hire, which is the actual beginning of employment. **The employer is responsible for ensuring that Section 1 is timely and properly completed.**

**Preparer/Translator Certification.** The Preparer/Translator Certification must be completed if Section 1 is prepared by a person other than the employee. A preparer/translator may be used only when the employee is unable to complete Section 1 on his/her own. However, the employee must still sign Section 1.

**Section 2 - Employer.** For the purpose of completing this form, the term "employer" includes those recruiters and referrers for a fee who are agricultural associations, agricultural employers or farm labor contractors.

Employers must complete Section 2 by examining evidence of identity and employment eligibility within three (3) business days of the date employment begins. If employees are authorized to work, but are unable to present the required document(s) within three business days, they must present a receipt for the application of the document(s) within three business days and the actual document(s) within ninety (90) days. However, if employers hire individuals for a duration of less than three business days, Section 2 must be completed at the time employment begins. **Employers must record: 1) document title; 2) issuing authority; 3) document number, 4) expiration date, if any; and 5) the date employment begins.** Employers must sign and date the certification. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. These photocopies may only be used for the verification process and must be retained with the I-9. **However, employers are still responsible for completing the I-9.**

**Section 3 - Updating and Reverification.** Employers must complete Section 3 when updating and/or reverifying the I-9. Employers must reverify employment eligibility of their employees on or before the expiration date recorded in Section 1. Employers **CANNOT** specify which document(s) they will accept from an employee.

- If an employee's name has changed at the time this form is being updated/ reverified, complete Block A.
- If an employee is rehired within three (3) years of the date this form was originally completed and the employee is still eligible to be employed on the same basis as previously indicated on this form (updating), complete Block B and the signature block.

- If an employee is rehired within three (3) years of the date this form was originally completed and the employee's work authorization has expired or if a current employee's work authorization is about to expire (reverification), complete Block B and:
  - examine any document that reflects that the employee is authorized to work in the U.S. (see List A or C),
  - record the document title, document number and expiration date (if any) in Block C, and complete the signature block.

**Photocopying and Retaining Form I-9.** A blank I-9 may be reproduced, provided both sides are copied. The Instructions must be available to all employees completing this form. Employers must retain completed I-9s for three (3) years after the date of hire or one (1) year after the date employment ends, whichever is later.

**For more detailed information, you may refer to the INS Handbook for Employers, (Form M-274). You may obtain the handbook at your local INS office.**

**Privacy Act Notice.** The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 USC 1324a).

This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States.

This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by officials of the U.S. Immigration and Naturalization Service, the Department of Labor and the Office of Special Counsel for Immigration Related Unfair Employment Practices.

Submission of the information required in this form is voluntary. However, an individual may not begin employment unless this form is completed, since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.

**Reporting Burden.** We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: **1) learning about this form, 5 minutes; 2) completing the form, 5 minutes; and 3) assembling and filing (recordkeeping) the form, 5 minutes, for an average of 15 minutes per response.** If you have comments regarding the accuracy of this burden estimate, or suggestions for making this form simpler, you can write to the Immigration and Naturalization Service, HQPDI, 425 I Street, N.W., Room 4034, Washington, DC 20536. OMB No. 1115-0136.

# Employment Eligibility Verification

Please read instructions carefully before completing this form. The instructions must be available during completion of this form. **ANTI-DISCRIMINATION NOTICE:** It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Verification.** To be completed and signed by employee at the time employment begins.

Print Name: Last	First	Middle Initial	Maiden Name
Address (Street Name and Number)		Apt. #	Date of Birth (month/day/year)
City	State	Zip Code	Social Security #
<b>I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.</b>		I attest, under penalty of perjury, that I am (check one of the following): <input type="checkbox"/> A citizen or national of the United States <input type="checkbox"/> A Lawful Permanent Resident (Alien # A _____) <input type="checkbox"/> An alien authorized to work until ___/___/___ (Alien # or Admission #) _____	
Employee's Signature			Date (month/day/year)

**Preparer and/or Translator Certification.** (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature	Print Name
Address (Street Name and Number, City, State, Zip Code)	
Date (month/day/year)	

**Section 2. Employer Review and Verification.** To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s)

List A	OR	List B	AND	List C
Document title: _____		_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): ___/___/___		___/___/___		___/___/___
Document #: _____				
Expiration Date (if any): ___/___/___				

**CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) \_\_\_/\_\_\_/\_\_\_ and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)**

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name	Address (Street Name and Number, City, State, Zip Code)	Date (month/day/year)

**Section 3. Updating and Reverification.** To be completed and signed by employer.

A. New Name (if applicable)	B. Date of rehire (month/day/year) (if applicable)
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C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.

Document Title: \_\_\_\_\_ Document #: \_\_\_\_\_ Expiration Date (if any): \_\_\_/\_\_\_/\_\_\_

I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative	Date (month/day/year)
--	-----------------------



## LISTS OF ACCEPTABLE DOCUMENTS

LIST A	LIST B	LIST C
<p>Documents that Establish Both <b>Identity and Employment Eligibility</b></p>	<p>Documents that Establish <b>Identity</b></p>	<p>Documents that Establish <b>Employment Eligibility</b></p>
OR	AND	
<ol style="list-style-type: none"> <li>1. U.S. Passport (unexpired or expired)</li> <li>2. Certificate of U.S. Citizenship (<i>INS Form N-560 or N-561</i>)</li> <li>3. Certificate of Naturalization (<i>INS Form N-550 or N-570</i>)</li> <li>4. Unexpired foreign passport, with <i>I-551 stamp</i> or attached <i>INS Form I-94</i> indicating unexpired employment authorization</li> <li>5. Permanent Resident Card or Alien Registration Receipt Card with photograph (<i>INS Form I-151 or I-551</i>)</li> <li>6. Unexpired Temporary Resident Card (<i>INS Form I-688</i>)</li> <li>7. Unexpired Employment Authorization Card (<i>INS Form I-688A</i>)</li> <li>8. Unexpired Reentry Permit (<i>INS Form I-327</i>)</li> <li>9. Unexpired Refugee Travel Document (<i>INS Form I-571</i>)</li> <li>10. Unexpired Employment Authorization Document issued by the INS which contains a photograph (<i>INS Form I-688B</i>)</li> </ol>	<ol style="list-style-type: none"> <li>1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address</li> <li>2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address</li> <li>3. School ID card with a photograph</li> <li>4. Voter's registration card</li> <li>5. U.S. Military card or draft record</li> <li>6. Military dependent's ID card</li> <li>7. U.S. Coast Guard Merchant Mariner Card</li> <li>8. Native American tribal document</li> <li>9. Driver's license issued by a Canadian government authority</li> </ol> <p style="text-align: center; font-weight: bold; margin: 5px 0;">For persons under age 18 who are unable to present a document listed above:</p> <ol style="list-style-type: none"> <li>10. School record or report card</li> <li>11. Clinic, doctor or hospital record</li> <li>12. Day-care or nursery school record</li> </ol>	<ol style="list-style-type: none"> <li>1. U.S. social security card issued by the Social Security Administration (<i>other than a card stating it is not valid for employment</i>)</li> <li>2. Certification of Birth Abroad issued by the Department of State (<i>Form FS-545 or Form DS-1350</i>)</li> <li>3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal</li> <li>4. Native American tribal document</li> <li>5. U.S. Citizen ID Card (<i>INS Form I-197</i>)</li> <li>6. ID Card for use of Resident Citizen in the United States (<i>INS Form I-179</i>)</li> <li>7. Unexpired employment authorization document issued by the INS (<i>other than those listed under List A</i>)</li> </ol>

**Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)**

\* In 1996, the old version of the permanent resident card, the Form I-151, was deleted as an acceptable List A document and the new employment authorization document, the Form I-766, was added as a List A document. In 1997, INS published an interim rule removing four documents from List A, including the Certificate of United States Citizenship, the Certificate of Naturalization, the Re-entry Permit, and the Refugee Travel Document. INS does not take enforcement action against employers who accept any of these documents.



Appendix F  
Questionnaires



Start Time: \_\_\_\_\_

**CAVP EMPLOYER ON-SITE INTERVIEW**

I will be asking you questions about this establishment and its experiences with the CAVP Employment Verification System. These questions are designed to provide us with a more in-depth understanding of how well the pilot program is working than we got from the mail questionnaire.

In answering the questions, please consider only this establishment. By that, I mean the business location, branch or division at this address. Please do not include information about other offices or sites of this firm. If you have any uncertainty about this for any question, or at any point in the interview, please let me know and we will discuss it.

**A. HIRING PROCEDURES**

I'd like to start by finding out a little bit about this establishment. In order to understand how the CAVP pilot program has really been working, it would be helpful if we could get a general understanding of your procedures for hiring and processing new workers.

<p>A1. Which of the following items do you request from job applicants <u>before</u> making a job offer? Do you request: (CODE 'YES' OR 'NO' FOR EACH ITEM.)</p>		YES		NO
a. A resume or vita?	1			5
b. A completed job application?	1			5
c. References?	1			5
d. Skills tests?	1			5
e. A medical form or tests?	1			5
f. A completed I-9 Form?	1			5
g. Work authorization documents?	1			5
<p>h. What else do you request before making a job offer?  <b>(IF NOTHING ELSE, CODE 'NO'.                  IF ANY ITEMS MENTIONED, CODE 'YES' AND SPECIFY.)</b></p> <p>_____</p> <p>_____</p>	1			5

A2. Which of the following procedures does this establishment use to process new employees after they are hired? (CODE 'YES' OR 'NO' FOR EACH ITEM.)

	YES	NO
a. Orientation sessions?	1	5
b. A completed I-9 Form?	1	5
c. Completed forms other than I-9?	1	5
d. Verification of work authorization using the CAVP system?	1	5
e. A physical exam?	1	5
f. Drug tests?	1	5
g. What other procedures do you use to process new employees after they are hired? <b>(IF NOTHING ELSE, CODE 'NO'. IF ANY PROCEDURES MENTIONED, CODE 'YES' AND SPECIFY.)</b>  _____	1	5

**(IF EMPLOYER USES CAVP [A2d = 1] ASK A3 AND A4.  
OTHERWISE, GO TO SECTION B.)**

- A3. a. For which types of employees do you use the CAVP program?  
(RECORD VERBATIM; CIRCLE ALL THAT APPLY IN COLUMN a)
- b. (FOR EACH CATEGORY NOT CIRCLED IN COLUMN a, ASK:)  
Do you use the CAVP program for [CATEGORY]?  
(CODE 'YES' OR 'NO' IN COLUMN b)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

	a. GIVEN	b. PROBED	
		YES	NO
A. NEW EMPLOYEES WHO CLAIM TO BE NON-CITIZENS	1	1	5
B. NEW EMPLOYEES WHO CLAIM TO BE CITIZENS	2	1	5
C. JOB APPLICANTS	3	1	5
D. EMPLOYEES WHO WORKED AT THE ESTABLISHMENT PRIOR TO THE INSTITUTION OF THE CAVP	4	1	5
E. OTHER ( <b>SPECIFY:</b> )  _____ _____	5	1	5

- A4. Is the CAVP program generally used to process a new employee:

After a job offer but before the employee's first day of paid work,	1
On the first day of paid work,	2
Within the first three days of work,	3
More than three days after starting work, or	4
At some other time? ( <b>SPECIFY:</b> ) _____ _____ _____	5

**B. CHANGES SINCE THE CAVP STARTED**

B1. Please tell me how long you personally have been involved with hiring at this establishment.

		AND		
YEARS			MONTHS	

B2. And how long have you personally been working with the CAVP program at this establishment?

		AND		
YEARS			MONTHS	



In answering the following questions about changes since beginning to use the CAVP, I would like you to compare the hiring procedures your establishment uses now with the procedures that were in existence before your establishment began using the CAVP program.

B3. Have there been any modifications in the way this establishment recruits or hires employees since this establishment began using the CAVP program?

YES	1
NO	5
DON'T KNOW	8

GO TO B5 ←

B4. a. Did these modifications involve:  
(CODE 'YES' OR 'NO' IN COLUMN a FOR EACH ITEM.)

b. (FOR EACH CATEGORY CODED 'YES' IN COLUMN a, ASK:)  
Did the change in [CATEGORY] apply to US citizens only, non-citizens, or both?  
(CODE RESPONSE IN COLUMN b)

	COL. a		COLUMN b		
	YES	NO	US CITIZEN	NON-US CITIZEN	BOTH
a. The way resumes are reviewed?	1	5	1	2	3
b. Requirements for in-person interviews?	1	5	1	2	3
c. Verification of work authorization?	1	5	1	2	3
d. The requirement of fewer or more documents to confirm work authorization?	1	5	1	2	3
e. What other modifications have there been? <b>(IF NO OTHERS, CODE 'NO'. IF ANY OTHERS, CODE 'YES')</b>	1	5	1	2	3

**(EXPLAIN ALL YES RESPONSES)**

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B5. In your opinion, has the CAVP verification system helped to reduce some of the work associated with collecting and reviewing the documents required for employment verification?

GO TO B7 ←

YES	1
NO	5
DON'T KNOW	8

B6. How has it helped? Would you say: (CODE 'YES' OR 'NO' FOR EACH ITEM.)

	YES	NO
a. There are fewer documents required for US citizens?	1	5
b. There are fewer documents required for non-citizens?	1	5
c. In what other way has it helped reduce the work in collecting and reviewing documents? <b>(IF NO OTHER WAY, CODE 'NO'. IF ANY OTHER WAY, CODE 'YES')</b>	1	5

**(EXPLAIN ALL YES RESPONSES)**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

B7. Do you think the CAVP verification system has helped to reduce the employment of persons who are not legally authorized to work in the United States?

GO TO SECTION C ←

YES	1
NO	5
DON'T KNOW	8

B8. (Why do you think so? / Why not?) (RECORD VERBATIM)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**C. GENERAL EXPERIENCES WITH THE CAVP PROGRAM**

C1. Before you began using the CAVP program, how would you characterize the I-9 process?  
Would you say it was:

Very burdensome,	1
Moderately burdensome,	2
Somewhat burdensome, or	3
Not at all burdensome?	4

C2. Currently, how would you characterize the CAVP procedures including the I-9 process?  
Would you say it is:

Very burdensome,	1
Moderately burdensome,	2
Somewhat burdensome, or	3
Not at all burdensome?	4

C3. Thinking of the effect the CAVP program has had at your establishment, would you say your confidence that new hires are work authorized has increased:

Quite a lot,	1
Somewhat,	2
Only a little, or	3
Not at all?	4

C4. Did this establishment encounter any difficulties during the process of setting up the CAVP program?

**GO TO C6** ←

YES	1
NO	5
DON'T KNOW	8

C5. What were the difficulties during the process of setting up the CAVP program?  
(RECORD VERBATIM; THEN CIRCLE ALL THAT APPLY)

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PROBLEM WITH OUR MODEM	1
PROBLEM WITH THE TYPE OF COMPUTER SYSTEM WE USE	2
PROBLEM WITH THE PHONE LINE	3
OTHER TECHNICAL PROBLEMS WITH SOFTWARE, HARDWARE, ETC.	4
STAFF ISSUES [WHO WILL DO THE VERIFICATIONS, STAFF TRAINING, ETC.]	5
OTHER	6

C6. Did this establishment encounter any difficulties with the CAVP program after it was set up?

YES	1
NO	5
DON'T KNOW	8

GO TO C8 ←

C7. a. What were the difficulties encountered with the CAVP program after it was set up? (RECORD VERBATIM; CIRCLE ALL THAT APPLY IN COLUMN a)

b. (FOR EACH CATEGORY NOT CIRCLED IN COLUMN a, ASK:) What about [CATEGORY]; was that a problem? (CODE PROBES 'YES' OR 'NO' IN COLUMN b)

c. (FOR EACH CATEGORY CIRCLED IN COLUMN a OR 'YES' COLUMN b, ASK:) Is [CATEGORY] an ongoing problem or has it been solved? (CODE 'ONGOING' OR 'SOLVED' IN COLUMN c)

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	a. GIVEN	b. PROBES		c.	
		YES	NO	ON- GOING	SOLVED
A. PROBLEM ACCESSING THE SYSTEM (I.E., HARD TO GET THROUGH)	1	1	5	1	2
B. SYSTEM UNAVAILABLE FOR USE DURING WEEKENDS OR NIGHTS	2	1	5	1	2
C. OTHER TECHNICAL PROBLEMS	3	1	5	1	2
D. STAFF PROBLEMS [TRAINING NEW STAFF TO DO VERIFICATIONS, ETC.]	4	1	5	1	2
E. OTHER	5	1	5	1	2

C8. In your opinion, what are some of the benefits of the CAVP verification system?  
 Would you say: (CODE 'YES' OR 'NO' FOR EACH ITEM.)

	YES	NO
a. It increases confidence in the establishment's ability to detect non-citizens who are not eligible to work?	1	5
b. It makes the establishment feel comfortable that it is in compliance with the law?	1	5
c. It decreases the likelihood of an INS audit?	1	5
d. It decreases the likelihood of employment sanctions?	1	5
e. It gives employees an opportunity to correct their INS records?	1	5
f. What other benefits of the CAVP system are there? <b>(IF NO OTHERS, CODE 'NO'.                  IF ANY OTHERS, CODE 'YES')</b>	1	5

**(EXPLAIN ALL YES RESPONSES)** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

C9. a. In your opinion, what are the main disadvantages or shortcomings of the CAVP verification system?  
 (RECORD VERBATIM; CIRCLE ALL THAT APPLY IN COLUMN a)  
 b. (FOR EACH CATEGORY NOT CIRCLED IN COLUMN a, ASK:) What about [CATEGORY]; is that a main disadvantage or shortcoming of the CAVP?  
 (CODE 'YES' OR 'NO' IN COLUMN b)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

	a. GIVEN	b. PROBED	
		YES	NO
A. HARDER TO FIND WORKERS	1	1	5
B. LOST WORK TIME WHEN EMPLOYEES NEED TO GO THROUGH THE CAVP PROCEDURES	2	1	5
C. LOST TRAINING INVESTMENT OR WORK TIME WHEN NON-VERIFIED EMPLOYEES LEAVE	3	1	5
D. INCREASED BURDEN TO PROCESS NEW HIRES	4	1	5
E. INCREASED DISCRIMINATION AGAINST NONCITIZENS	5	1	5
F. POTENTIAL VIOLATION OF PRIVACY RIGHTS OF EMPLOYEES	6	1	5
G. OTHER	7	1	5

C10. On balance, do you think the benefits or the disadvantages of the CAVP verification system are stronger, or do you think they are equal?

BENEFITS STRONGER	1
DISADVANTAGES STRONGER	2
EQUAL BENEFITS AND DISADVANTAGES	3
DON'T KNOW	8

**GO TO C12** ←

C11. Why do you feel this way? (RECORD VERBATIM)

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

C12. The CAVP program is intended to make it easier to verify work authorizations for US citizens. What documents do you require US citizens to show? Do you require:

	YES	NO
a. A photo ID? <i>(IF YES, SPECIFY TYPE:)</i> _____	1	5
b. A non-photo ID? <i>(IF YES, SPECIFY TYPE:)</i> _____	1	5
c. What other documents do you require US citizens to show? <i>(IF NOTHING ELSE, CODE 'NO'. IF ANY OTHERS, CODE 'YES' AND SPECIFY.)</i> _____ _____	1	5

C13. Do you find it easier or harder to verify work authorizations for US citizens under the CAVP program than it was to verify work authorizations for US citizens under the process you used prior to beginning this program?

EASIER WITH CAVP	1
HARDER WITH CAVP	2
NO DIFFERENCE	3

C14. Since using the CAVP at this establishment, of all the new employees, what percentage indicated that they were US citizens on the I-9 Form?

[PROBE: Your best guess would be fine.]

			%
--	--	--	---

PERCENTAGE US CITIZENS

C15. Of those new employees who indicated US citizen on the I-9 Form, what would be your best estimate of the percentage who you think were in fact not US citizens?

			%
--	--	--	---

PERCENTAGE FALSE

C16. INS has been testing other pilot programs that require employers to use the automated system for all new hires, not just those who indicate that they are non-citizens.

Do you think that such a system would be better than the CAVP program?

YES	1
NO	5
DON'T KNOW	8

**GO TO SECTION D** ←

C17. Why do you feel this way? (RECORD VERBATIM)

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**D. EMPLOYEE CHARACTERISTICS**

D1. Do you think that the CAVP program makes participating employers more or less willing to hire immigrants?

MORE	1
LESS	2
NEITHER	3
DON'T KNOW	8

**GO TO SECTION E** ←

D2. Why does it make them (more / less) willing to hire immigrants? (RECORD VERBATIM)

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**E. COMMENTS REGARDING CAVP**

E1. What haven't we asked about the CAVP program and employment verification that we should know about in order to better evaluate the program? (RECORD VERBATIM)

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**F. SECURITY ISSUES REGARDING I-9 ENTRY**

Now I have some questions about security regarding the CAVP program entry of I-9 Forms at this establishment.

		COLUMN A OBSERVED	COLUMN B REPORTED
F1. Is the computer that is used for verification located in a locked room (that is, is a key or card needed to enter the room)? [IF OBSERVED, CIRCLE ONE CODE IN COLUMN A. IF REPORTED, CIRCLE ONE CODE IN COLUMN B.]	YES	1	2
	NO	5	6

**(IF COMPUTER IS IN A LOCKED ROOM [F1 = 1 OR 2] ASK F2. OTHERWISE, GO TO F3.)**

		COLUMN A OBSERVED	COLUMN B REPORTED
F2. Is that room usually kept locked when it is not occupied? [IF OBSERVED, CIRCLE ONE CODE IN COLUMN A. IF REPORTED, CIRCLE ONE CODE IN COLUMN B.]	YES	1	2
	NO	5	6

	COLUMN A NUMBER OBSERVED	COLUMN B NUMBER REPORTED
F3. How many workstations are in that room? [IF OBSERVED, ENTER IN COLUMN A. IF REPORTED, ENTER IN COLUMN B.]		
		DON'T KNOW    998

F4. How easy would it be for an unauthorized person to gain access to the CAVP computer or program?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

F5. Where are the instructions for using the CAVP system located?

[IF OBSERVED, CIRCLE ONE CODE IN COLUMN A.  
IF REPORTED, CIRCLE ONE CODE IN COLUMN B.]

	COL. A OBSERVED	COL. B REPORTED
IN A LOCKED DRAWER OR OTHER SECURE LOCATION	1	6
OUT OF SIGHT, BUT <u>NOT</u> IN A SECURE PLACE (E.G., IN AN UNLOCKED DRAWER)	2	7
IN PLAIN SIGHT, BUT <u>NOT</u> NEXT TO MACHINE (E.G., IN BOOK CASE)	3	8
IN PLAIN SIGHT, NEXT TO THE MACHINE	4	9
OTHER ( <b>SPECIFY:</b> ) _____	5	10
DON'T KNOW		98

F6. Where is the password for using the CAVP system located?

[IF OBSERVED, CIRCLE ONE CODE IN COLUMN A.  
IF REPORTED, CIRCLE ONE CODE IN COLUMN B.]

	COL. A OBSERVED	COL. B REPORTED
IN A LOCKED DRAWER OR OTHER SECURE LOCATION	1	7
OUT OF SIGHT, BUT <u>NOT</u> IN A SECURE PLACE (E.G., IN AN UNLOCKED DRAWER)	2	8
IN PLAIN SIGHT, BUT <u>NOT</u> NEXT TO MACHINE (E.G., IN BOOK CASE)	3	9
IN PLAIN SIGHT, NEXT TO THE MACHINE	4	10
OUT OF SIGHT – USER HAS PASSWORD MEMORIZED	5	11
OTHER ( <b>SPECIFY:</b> ) _____	6	12
DON'T KNOW		98





PLEASE MAKE CORRECTIONS TO THE INFORMATION ON THE LABEL BELOW.

(AFFIX LABEL HERE)

#### **OMB Statement**

The 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) (P.L. 104-208) that mandated the evaluation of pilot employment verification programs authorizes collection of data for this study. In signing the MOU agreeing to participate in the Citizen Attestation Verification Pilot, you also agreed to participate in this mandated program evaluation. All information collected in this evaluation will be treated as confidential by the study contractors (Temple University and Westat). They will use the information solely for statistical purposes and will not release information in a form that would permit the respondent to be identified. Information you provide will not be used by INS or other organizations for enforcement purposes. If you have any questions about this study, please contact Dr. Heather Hammer, Temple University, 1-800-827-5477 or contact the INS Clearance Officer, Mr. Robert B. Briggs, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 850, Washington Center, 1001 G Street, NW, Washington, DC 20530; OMB No. 1115-0234.

OMB No.: 1115-0234

Approval Expires: 12/31/03

### INSTRUCTIONS

This questionnaire includes a number of questions about employment verifications at your establishment. You may not be the person who is most knowledgeable about all aspects of the processes. If there are others at your establishment who are better able to answer some of these questions, we would appreciate your obtaining the necessary information from them. Please return the questionnaire to us in the enclosed envelope.

Thank you for your help.

### PLEASE RECORD

Your name: \_\_\_\_\_  
(First) (Last)

Title: \_\_\_\_\_

Length of time in your present position: \_\_\_\_\_ **OR** \_\_\_\_\_  
(# of months) (# of years)

Telephone #: ( ) \_\_\_\_\_ - \_\_\_\_\_ Ext: \_\_\_\_\_

## A. CITIZEN ATTESTATION VERIFICATION PROGRAM (CAVP) PARTICIPATION

**A1. How did this establishment become interested in the Citizen Attestation Verification Program (CAVP)?** [By 'this establishment' we mean the business location, branch or division specified at this address.]

[Please choose all that apply]

- |   |  |   |   |
|---|--|---|---|
| a | <input type="checkbox"/> INS materials or publications | g | <input type="checkbox"/> From other employers                         |
| b | <input type="checkbox"/> INS presentation              | h | <input type="checkbox"/> Materials from company headquarters (HQ)     |
| c | <input type="checkbox"/> INS audit or visit            | i | <input type="checkbox"/> Company HQs made the decision to participate |
| d | <input type="checkbox"/> Legal office/attorney         | j | <input type="checkbox"/> Internal Newsletter/publication              |
| e | <input type="checkbox"/> Newspaper/other publication   | k | <input type="checkbox"/> Request from a client to participate         |
| f | <input type="checkbox"/> Other - <b>Specify</b> _____  |   |   |

**A2. What was the one main reason this establishment agreed to participate in the Citizen Attestation Verification Program?**

[Please choose only one main reason]

- 1  To improve work eligibility screening
- 2  To satisfy a client's request
- 3  To avoid INS audit, raid or fine
- 4  Other - **Specify** \_\_\_\_\_

**A3. What was the one main reservation or concern that this establishment had about participating in the Citizen Attestation Verification Program?**

[Please choose only one main reason]

- 1  Equipment or remodeling costs
- 2  Staffing (e.g., new position, reassignment of employees)
- 3  Reliability of INS databases
- 4  Concerns about employee burden when employees need to contact INS
- 5  Concerns about work interruptions when employees need to contact INS
- 6  Did not feel comfortable confronting applicants who were not found to be work eligible.
- 7  Time constraints
- 8  Computer capacity
- 9  Increased burden on personnel staff
- 10  Other - **Specify** \_\_\_\_\_



## B. PROGRAM IMPLEMENTATION

**B1. From the time this establishment first received materials needed to use the Citizen Attestation Verification Program, how long was it before the program was put to use?**

Was it:

- 1  Less than one month → **SKIP TO Question B3**
- 2  1-3 months
- 3  4-6 months
- 4  More than 6 months
- 5  Never used

**B2. During the period between receipt of the system and the date it was put to use, which, if any of the following circumstances, explain why implementation was delayed?**

*[Please choose all that apply]*

- a  No staff available to implement the program
- b  Program required staff training
- c  Hired no new employees
- d  No assistance from INS
- e  Time constraints
- f  Lacked the necessary equipment
- g  Could not gain access to the INS database
- h  Could not reach INS program support
- i  Other - **Specify** ↓

**B3. Which of the following methods have been used to train staff members to conduct employment verification with the Citizen Attestation Verification Program?**

*[Please choose all that apply]*

- a  Self-instruction with the CAVP procedures manual
- b  Formal in-house training session
- c  Computer tutorial provided with installation package
- d  Formal training by INS personnel
- e  Informal on-the-job training
- f  Other - **Specify** ↓



**C. CITIZEN ATTESTATION VERIFICATION PROGRAM SETUP  
AND MAINTENANCE COSTS**

*THE NEXT 3 QUESTIONS ARE ABOUT SETTING UP THE CITIZEN ATTESTATION VERIFICATION PROGRAM.*

**C1. What direct costs did this establishment incur in setting-up the Citizen Attestation Verification Program?**

*[Please choose all that apply]*

- a  Training
- b  Computer hardware
- c  Telephone hook-up
- d  Filing cabinets or other office equipment
- e  Remodeling or restructuring of the physical plant
- f  Program never set up → **SKIP TO Question D1, Page 4**
- g  Other - *Specify* ↓

**C2. Please provide an estimate of the total direct expenditures associated with setting-up the Citizen Attestation Verification Program in this establishment.**

\$   ,    .00

**C3. Were the indirect costs associated with setting-up the Citizen Attestation Verification Program, such as reassignment of employees, additional recruitment, delayed production and so on:**

- 1  An extreme burden
- 2  moderate burden
- 3  A slight burden, or
- 4  Not a burden at all?

*THE NEXT 3 QUESTIONS ARE ABOUT MAINTAINING THE CITIZEN ATTESTATION VERIFICATION PROGRAM.*

**C4. What are the direct costs incurred by this establishment annually to maintain the Citizen Attestation verification program?**

*[Please choose all that apply]*

- a  Computer maintenance
- b  Telephone fees
- c  Training of replacement staff
- d  Wages of the verification specialist(s)
- e  Other - *Specify* ↓

C5. Please provide an estimate of the total annual direct expenditures associated with maintaining the Citizen Attestation Verification Program.

\$   ,    .00

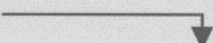
C6. Have the indirect costs associated with maintaining the Citizen Attestation Verification Program been:

- 1  An extreme burden,
- 2  moderate burden,
- 3  A slight burden, or
- 4  Not a burden at all?

#### D. EMPLOYMENT VERIFICATION PROCEDURES

D1. What assistance does this establishment provide to employees during the employment verification process?

*[Please choose all that apply]*

- a  Staff available to answer questions and assist with the completion of I-9 Forms
- b  Access to copiers, telephone, fax machines, etc.
- c  Paid time off from work to resolve work eligibility problems
- d  Unpaid time off from work to resolve work eligibility problems
- e  Translators
- f  Address and telephone numbers of agencies to call
- g  Other - **Specify** 

**D2. How often do each of the following situations apply to this establishment's use of the Citizen Attestation Verification Program:**

*[Please choose 'N/A' if the situation has never arisen]*

- a. Employees who fail initial verification are informed privately?
- b. Written notification of a tentative non-confirmation is given to employees?
- c. In-person notification of tentative non-confirmation is given to employees?
- d. Employees do not return to work when a tentative non-confirmation is received?
- e. Employees are unable to contest a tentative non-confirmation because of barriers such as language or 'red tape'?

Never	Sometimes	Often	Always	N/A
1	2	3	4	5
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**D3. For which employees did this establishment verify work authorizations?**

*[Please choose all that apply]*

- a.  Employees who work at this establishment
- b.  Employees who work at other establishments or branches of this firm
- c.  Employees who work at other companies

**D4. During the past six months, how many of the work authorization verifications for this establishment were conducted by another establishment or firm?**

- 1.  All verifications
- 2.  Some verifications
- 3.  No verifications

**D5. During the past six months, approximately how many people were verified at this establishment?**

,    people verified

IF NO VERIFICATIONS IN THE PAST SIX MONTHS, SKIP TO QUESTION. D9, P. 6





**D6. Please provide your best estimate of the percentage of new employees verified within the past 6 months who have presented 'real' documents that you may have reason to believe belong to another person.**

*[Include in your estimate new employees who quit prior to your entering information into the Citizen Attestation Verification Program.]*

- 01  None
- 02  Less than 1 percent
- 03  1-2 percent
- 04  3-5 percent
- 05  6-10 percent
- 06  11-20 percent
- 07  21-40 percent
- 08  41-60 percent
- 09  Over 60 percent

**D7. Please provide your best estimate of the percentage of new employees verified within the past 6 months at this establishment, who presented documents that you had reason to believe were counterfeit (i.e., documents were altered or forged.)**

*[Include in your estimate new employees who quit prior to your entering information into the Citizen Attestation Verification Program.]*

- 01  None
- 02  Less than 1 percent
- 03  1-2 percent
- 04  3-5 percent
- 05  6-10 percent
- 06  11-20 percent
- 07  21-40 percent
- 08  41-60 percent
- 09  Over 60 percent

**D8. During the past six months, for employees who received a tentative non-confirmation, how many days did it take from receipt of the tentative non-confirmation:**

- a. to receive a final confirmation or non-confirmation from the INS, on average?   days 95  N/A
- b. to receive a final confirmation or non-confirmation from the INS, for the longest case?   days 95  N/A

**D9. Now, please consider the burden associated with the I-9? Is the I-9 process...**

- 1  An extreme burden
- 2  moderate burden
- 3  A slight burden, or
- 4  Not a burden at all?

## E. VIEWS ABOUT THE CITIZEN ATTESTATION VERIFICATION PROGRAM

**E1. Do the following statements accurately describe the Citizen Attestation Verification Program (CAVP) currently in use at this establishment?**

*[Please choose 'Yes' or 'No' for each item]*

- |  | Yes                        | No                         |
|--|----------------------------|----------------------------|
| a. It is easy to make errors when entering employee information into the system.   | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |
| b. Frequent technical assistance is required from the INS to use the CAVP.   | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |
| c. At times, the number of employees hired is so great that it is impossible to submit the information required by the deadline. | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |
| d. The software for the CAVP is so cumbersome that it is impossible to submit work authorization requests by the deadline.       | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |

**E2. Please consider each of the following statements related to the Citizen Attestation Verification Program (CAVP) procedures, and select the answer that best describes the experiences at this establishment.**

- |  | Strongly Disagree        | Disagree                 | Agree                    | Strongly Agree           |
|--|--------------------------|--------------------------|--------------------------|--------------------------|
|  | 1                        | 2                        | 3                        | 4                        |
| a. The tasks required by the CAVP overburden the staff.                                      | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| b. It is impossible to fulfill all the employer obligations required by the CAVP process.    | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| c. It is easier to confirm work authorization through the CAVP than the earlier process.     | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| d. Work authorizations obtained through the CAVP are more reliable than the earlier process. | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| e. Overall, the CAVP is an effective tool for employment eligibility verification.           | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

**E3. Please consider each of the following statements related to tentative non-confirmations received during employment verification using the Citizen Attestation Verification Program. Select the answer that best represents the experiences of this establishment.**

- a. Contesting a tentative non-confirmation is not encouraged because the process requires too much time.
- b. Providing assistance to employees who contest a tentative non-confirmation is an excessive burden on staff.
- c. Contesting a tentative non-confirmation is not encouraged because employment eligibility rarely results.
- d. Establishing employment eligibility has become a burden because there are so many tentative non-confirmations.
- e. Work assignments must be restricted until employment eligibility is confirmed.

	Strongly Disagree	Disagree	Agree	Strongly Agree	N/A
	1	2	3	4	5
a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**E4. Please think of the materials provided by the INS. How useful were each of the following items?**

*[Please choose 'N/A' if the materials were not received from the INS or have not been used]*

- a. Citizen Attestation Verification Program manual?
- b. Computer Based Training Tutorial?
- c. Mouse Pad with verification information

	Not Useful At All	Not Very Useful	Somewhat Useful	Very Useful	N/A
	1	2	3	4	5
a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>



**E5. Think about your impressions of working with the INS to verify employment eligibility.**

**In working with the INS to verify employment eligibility, how often:**

- a. is the agency staff able to resolve any issues involving a tentative nonconfirmation?
- b. does the agency respond to employers' complaints with useful information?
- c. is time wasted with busy telephone lines or "on hold" when calling the agency for assistance?
- d. is it difficult to manage the agency telephone menu to reach the appropriate person who can provide assistance?
- e. does the agency return telephone calls promptly?
- f. are agency staff polite?
- g. are agency staff able to resolve any technical problems encountered in attempting to use the verification system?
- h. Other impressions of INS -  
*Specify, then 'X' how often it occurs.*

	Never	Sometimes	Often	Always	N/A
	1	2	3	4	5
a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**E6. Please consider each of the following statements related to the impact of the Citizen Attestation Verification Program (CAVP), and select the answer that best represents the experiences of this establishment.**

- a. The number of work-authorized persons who apply for jobs decreases when the CAVP is used.
- b. The number of unauthorized workers who apply for jobs decreases when the CAVP is used.
- c. Qualified hourly workers are difficult to recruit when using the CAVP.
- d. Qualified salaried workers are difficult to recruit when using the CAVP.
- e. Using the CAVP resulted in the resignation of existing employees.
- f. Using the CAVP has damaged the employee-management relationship.
- g. Using the CAVP has created a competitive advantage for this establishment.
- h. Using the CAVP caused this establishment to be less competitive.

	Strongly Disagree	Disagree	Agree	Strongly Agree
	1	2	3	4
a.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
d.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
e.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
f.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
g.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
h.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**E7. Since this establishment started using the CAVP, has there ever been a month or more when the program wasn't used?**


1  Yes

5  No → **SKIP TO Question F1, Page 11**



**E8. Which of the following were reasons for not using the CAVP?**

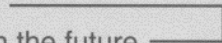

*[Please choose all that apply]*

- a  Hired no new employees
- b  No trained staff available
- c  Experienced technical difficulties
- d  Lack of confidence in databases
- e  The program is burdensome and time-consuming
- f  Developed other ways to ensure work eligibility of newly hired employees
- g  Decided to have a contractor verify employees for this establishment
- h  Decided to use employees of temporary or other contract agencies
- i  Other - *Specify* 

**F. QUESTIONS FOR SYSTEM NON-USERS**

**F1. Which of the following best describes the current situation of this establishment regarding the Citizen Attestation Verification Program (CAVP)?**

*[Please choose only one answer]*

- 1  Currently using the system 
- 2  Expect to use the system in the future 
- 3  Don't expect to use the system

**SKIP TO Question G1, Page 12**

**F2. Why does this establishment not expect to use the system?**

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## G. ESTABLISHMENT CHARACTERISTICS

**G1. Is this establishment part of a company that has establishments outside the U.S.?**

- 1  Yes  
 5  No  
 8  Don't know
- **SKIP TO QUESTION G3**

**G2. In which country is the headquarters located?**

- 1  United States  
 5  Other - *Specify*  
 8  Don't know
- ↓
- 

**G3. Is this establishment a personnel or temporary employee company that supplies workers for other firms?**

- 1  Yes  
 5  No

**G4. How many current employees of this establishment are:**

*[Include all employees of this establishment who work under contract at another site. Do not include employees of contract or temporary service agencies who work at your site.]*

Full-time permanent?	<input type="text"/> <input type="text"/> , <input type="text"/> <input type="text"/> <input type="text"/>
Part-time permanent?	<input type="text"/> <input type="text"/> , <input type="text"/> <input type="text"/> <input type="text"/>
On a temporary basis?	<input type="text"/> <input type="text"/> , <input type="text"/> <input type="text"/> <input type="text"/>
<b>TOTAL</b>	<hr style="width: 100%;"/> <input type="text"/> <input type="text"/> <input type="text"/> , <input type="text"/> <input type="text"/> <input type="text"/>

**G5. During the past six months, approximately how many people were hired at this establishment?**

,    people verified

**G6. Approximately what percent of current employees of this establishment are:**

	<b>% of All Employees</b>
<b>a. Salaried?</b> (e.g., managers, professionals and technical staff)	_____ %
<b>b. Skilled Hourly?</b> (e.g., sales, office, clerical and craft workers)	_____ %
<b>c. Unskilled Hourly?</b> (e.g., operatives, laborers and service workers)	_____ %
<b>TOTAL</b>	<b>100 %</b>

**G7. Approximately what percent of current employees of this establishment are:**

	<b>% of All Employees</b>
a. Hispanic or Latino?	_____ %
b. Black or African American?	_____ %
c. Asian?	_____ %
d. White?	_____ %
e. Other?	_____ %

**G8. Approximately what percent of current employees of this establishment are sponsored for H-1 visas?**

- 00  None
- 01  Less than 1 percent
- 02  1-2 percent
- 03  3-5 percent
- 04  6-10 percent
- 05  11-20 percent
- 06  21-40 percent
- 07  41-60 percent
- 08  Over 60 percent



**G9. Approximately what percent of current employees of this establishment are union members?**

- 00  None
- 01  Less than 1 percent
- 02  1-2 percent
- 03  3-5 percent
- 04  6-10 percent
- 05  11-20 percent
- 06  21-40 percent
- 07  41-60 percent
- 08  Over 60 percent

G10. Approximately what percent of current <u>hourly</u> employees of this establishment...	Less than 5%	5-9%	10-19%	20-39%	40-59%	60-79%	80-89%	90-94%	95% or more	N/A
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(96)
a. have a high school diploma or equivalent?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
b. have a college or professional degree?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
c. are immigrants (i.e., they were born outside of the U.S.?)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**G11. From which country or countries do most of the immigrants currently employed in this establishment come?**

*[Please choose all that apply.]*

- a  Canada
- b  China
- c  India
- d  Mexico
- e  Philippines
- f  Vietnam
- g  Other - *Specify* 

**G12. Compared to the industry as a whole, would you say this establishment's compensation rate (i.e., salaries or wages and benefits) is:**

- 1  Below average
- 2  Average
- 3  Above average

<b>G13. How easy or difficult is it for this establishment to find qualified workers to fill vacancies in the following categories?</b>	Very Easy	Fairly Easy	Fairly Difficult	Very Difficult	N/A
<i>[Please choose 'N/A' if this establishment does <u>not</u> hire workers in the category.]</i>	1	2	3	4	7
<b>a. Salaried</b> (e.g., managers, professionals and technical staff)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>b. Skilled Hourly</b> (e.g., sales, office, clerical and craft workers)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<b>c. Unskilled Hourly</b> (e.g., operatives, laborers and service workers)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**G14. What are the peak months for hiring employees at this establishment?**

*[Circle all letters, a–m, that apply.]*

- a. January
- b. February
- c. March
- d. April
- e. May
- f. June
- g. July
- h. August
- i. September
- j. October
- k. November
- l. December
- m. Continual hiring

**G15. When recruiting new employees, does this establishment...**

*[Please choose 'Yes' or 'No' for each item]*

- |   | <b>Yes</b>                 | <b>No</b>                  |
|---|----------------------------|----------------------------|
| a. accept unsolicited 'walk-in' applications?     | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |
| b. use informal referrals from current employees? | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |
| c. target recent immigrants?                      | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |
| d. target certain racial or ethnic minorities?    | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |

**G16. How would you characterize the financial health of this establishment during the past six months?**

- 1  Excellent - high profit growth
- 2  Good - moderate profit growth
- 3  Fair - no change in profits
- 4  Poor - decline in profits

**G17. During the past six months, has this establishment experienced...**

- 1  Rapid growth,
- 2  Moderate growth,
- 3  No change, or
- 4  Reduction?

**G18. During the past two years, has the INS ever visited this establishment for any of the following reasons?**

*[Please choose 'Yes' or 'No' for each item]*

- |   | <b>Yes</b>                 | <b>No</b>                  |
|---|----------------------------|----------------------------|
| a. to educate the staff about IRCA (Immigration and Reform Act)         | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |
| b. to provide training for the Citizen Attestation Verification Program | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |
| c. to review I-9 Forms  | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |
| d. to determine if unauthorized immigrants were employed                | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |
| e. to investigate possible document fraud                               | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |
| f. for any other reason - <i>Specify</i> _____                          | 1 <input type="checkbox"/> | 5 <input type="checkbox"/> |









## Appendix G

Notice of Tentative Nonconfirmation and Referral to INS



**NOTICE TO EMPLOYEE OF TENTATIVE NONCONFIRMATION**

To: \_\_\_\_\_  
(Name of Employee)

SSN: \_\_\_\_\_

Date of Tentative Nonconfirmation: \_\_\_\_\_

This employer is participating in a pilot project with the Immigration and Naturalization Service (INS) to verify employment eligibility information you provided when you completed the Form 1-9. **When your information was compared electronically to government records, the INS could not confirm that you are eligible to work in the United States. This Tentative Nonconfirmation does not mean that you are not work authorized, or that the information you provided is incorrect. There are many reasons why a work authorized employee could be the subject of a Tentative Nonconfirmation. The Tentative Nonconfirmation means, however, that you must contact the government to resolve the situation if you wish to continue your employment.**

You have a voluntary choice. You may **Contest** the Tentative Nonconfirmation, or you may choose to **Not Contest** the Tentative Nonconfirmation.

If you Contest the Tentative Nonconfirmation, you must contact the INS within 8 Federal Government work days of the date shown above to resolve your situation by providing additional information or documents that will permit the government to notify your employer that you are work authorized. During that time your employer may not terminate your employment or take adverse action against you based upon your employment eligibility status or because you have chosen to contest the Tentative Nonconfirmation. If you contest the Tentative Nonconfirmation, your employer will provide you with an information sheet that will tell you what you need to know about contacting INS and how to do it.

If you do Not **Contest** the Tentative Nonconfirmation, you are making a choice voluntarily to give up your opportunity to correct the Tentative Nonconfirmation. If you do not contest the Tentative Nonconfirmation, it automatically becomes a Final Nonconfirmation. That means that your employer may terminate you immediately as an unauthorized employee. If you do not contest the Tentative Nonconfirmation, a legal presumption is created that your employer is in violation of the law if it continues your employment.

If you have questions or concerns about immigration-related unfair employment practices, you may call the Office of special Counsel for Immigration-Related Unfair Employment Practices toll free at 1-800-255-7688 or TDD 1-800-237-2515 for the hearing impaired.

**I choose to (check one):**

\_\_\_ **Contest** the Tentative Nonconfirmation. I understand that I must contact the government within 8 Federal government work days, and that my employer must provide me with information telling me how to do this.

\_\_\_ **Not Contest** the Tentative Nonconfirmation. I choose voluntarily to give up my opportunity to correct the Tentative Nonconfirmation. I understand that my voluntary choice not to contest the Tentative Nonconfirmation authorizes my employer to terminate my employment immediately.

Signature of Employee: \_\_\_\_\_ Date: \_\_\_\_\_

**Employer's Certification**

I certify that this employer has received a Tentative Nonconfirmation relating to the employee whose name and signature appear above and that the employee has made the choice indicated. I also certify that the employee has executed and signed this document, that the employee's choice to the best of my knowledge was a knowing and voluntary choice, and that the employee has not been coerced or pressured in any way by this employer regarding his or her choice whether to contest the Tentative Nonconfirmation.

Name of Employer: \_\_\_\_\_

Signature of Employer Representative: \_\_\_\_\_

Date: \_\_\_\_\_

**NOTIFICATION TO THE EMPLOYEE  
REFERRAL TO THE IMMIGRATION AND NATURALIZATION SERVICE**

Name of Employee \_\_\_\_\_

Employee's A number: \_\_\_\_\_

Employee's verification number: \_\_\_\_\_

This employer is participating in a pilot project to verify the employment eligibility documentation you provided when you completed the Form I-9. The information you provided was compared to the Immigration and Naturalization Service's (INS) records. The INS has been unable to verify your employment eligibility. You have chosen to contest the INS' tentative nonconfirmation. The tentative nonconfirmation does not mean that the information provided is incorrect, but it means that if you are work authorized, you must contact the INS to resolve your case. The following options are available to assist you:

1. You may call toll free at **1-800-89707781** to talk to an INS status verifier, or
2. You may visit the local INS office listed below (addresses can be found in the back of this manual). When you arrived at the office, ask to the MRDP duty officer or the status verifier.

U.S. Immigration & Naturalization Service  
(address of local INS office)

It is your responsibility to contact INS within 8 Federal Government work days from today to clarify your employment eligibility status. When you call or visit the INS you will be asked to provide additional information or documents to verify your eligibility to work. If you fail to contact the INS within the 8-day period, your employer will be notified and may be subject to fines for continuing to employ you.

Your employer may not terminate your employment or take adverse action against you within the next 10 Federal Government work days based upon your employment eligibility status, unless the INS determines within that time that you are not authorized to work.

If you do not understand what you are required to do, please call the INS toll free number, 1-888-897-7781 and they will assist you through the process.

If you have questions or concerns about this process or about immigration-related unfair employment practices, you may call the Office of special Counsel for Immigration-Related Unfair employment Practices toll free at **1-800-255-7688** or **TDD 1-800-237-2515** for the hearing impaired.

Date Referred to INS: \_\_\_\_\_

Name of Employer: \_\_\_\_\_

Name of Employer Official: \_\_\_\_\_

Employer Official's Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_

Employee's Signature: \_\_\_\_\_ Date Signed: \_\_\_\_\_



## Appendix H

### Memorandum of Understanding (MOU)





**CITIZENSHIP ATTESTATION VERIFICATION PILOT  
MEMORANDUM OF UNDERSTANDING**

**ARTICLE I**

**PURPOSE AND AUTHORITY**

This Memorandum of Understanding (MOU) sets forth the points of agreement between the Immigration and Naturalization Service (INS) and \_\_\_\_\_(Employer) regarding the Employer's participation in the Citizen Attestation Employment Verification Pilot ("Citizen Attestation Pilot"). The Citizen Attestation Pilot is a pilot program in which the employment eligibility of all newly hired alien employees will be confirmed after the Employment Eligibility Verification Form (Form I-9) has been completed. Different Form I-9 requirements apply to newly hired employees attesting to U.S. citizenship (for purposes of this MOU and the Citizen Attestation Pilot, references to U.S. citizenship include U.S. nationality).

Authority for the Citizen Attestation Pilot is found in Title IV, Subtitle A, of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. 104-208, 110 Stat. 3009.

**ARTICLE II**

**FUNCTIONS TO BE PERFORMED**

**A. RESPONSIBILITIES OF THE INS**

1. Upon completion of the Form I-9 by the employee and the Employer, the INS agrees to provide the Employer access to selected data from the INS' ASVI database to enable the Employer to conduct automated verification checks on newly hired alien employees by use of a personal computer and modem.
2. The INS agrees to provide to the Employer appropriate assistance with operational problems that may arise during the Employer's participation in the Citizen Attestation Pilot. The INS agrees to provide the Employer names, titles, addresses, and telephone numbers of INS representatives to be contacted during the Citizen Attestation Pilot, including one or more individuals in each INS district office covering an area in which the Employer hires employees covered by this MOU.
3. The INS agrees to provide to the Employer a manual containing instructions on Citizen Attestation Pilot policy, procedures and requirements, including restrictions on use of Citizen

## **CITIZENSHIP ATTESTATION VERIFICATION PILOT MEMORANDUM OF UNDERSTANDING**

Attestation Pilot procedures (the Citizen Attestation Pilot Manual). The INS agrees to provide training materials on the Citizen Attestation Pilot.

4. The INS agrees to provide to the Employer a notice that indicates the Employer's participation in the Citizen Attestation Pilot. The INS also agrees to provide to the Employer anti-discrimination notices issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, Department of Justice.

5. The INS agrees to issue the Employer an access code, user identification number, and password that will permit the Employer to verify information provided by alien employees.

6. The INS agrees to safeguard the information provided to the INS by the Employer, and to limit access to such information to individuals responsible for the verification of alien employment eligibility and for evaluation of the Citizen Attestation Pilot, or to such other persons or entities as may be authorized by applicable law.

7. The INS agrees to establish a means of automated verification that is designed to provide confirmation or tentative nonconfirmation of alien employees' employment eligibility within 3 Federal Government work days of the initial inquiry.

8. The INS agrees to establish a means of secondary verification (including updating INS records as may be necessary) for employees who contest INS tentative nonconfirmations that is designed to provide confirmation or final nonconfirmation of alien employees' employment eligibility within 10 Federal Government work days of the date of referral to the INS, unless it determines that more than 10 days may be necessary. In such cases, the INS will provide additional verification instructions.

### **B. RESPONSIBILITIES OF THE EMPLOYER**

1. The Employer agrees to display the notices supplied by the INS in a prominent place that is clearly visible to prospective employees.

2. The Employer agrees to provide to the INS the names, titles, addresses, and telephone numbers of Employer representatives to be contacted regarding the Citizen Attestation Pilot.

3. The Employer agrees to have each employee who will be performing Citizen Attestation verification queries successfully complete the Citizen Attestation Computer-Based Tutorial prior to using the system. The Employer and each employee using the system should also become familiar with and comply with the Citizen Attestation Manual.

**CITIZENSHIP ATTESTATION VERIFICATION PILOT  
MEMORANDUM OF UNDERSTANDING**

4. The Employer agrees to comply with established Form I-9 procedures for its newly hired employees who attest in section 1 of the Form I-9 that they are not U.S. citizens, with one exception: The Employer agrees that it will only accept Form I-9 "List B" documents (those documents identified in 8 C.F.R. § 274a.2(b)(1)(B)) presented to establish identity by employees subject to Citizen Attestation Pilot verification that contain a photograph.

5. The Employer agrees to comply with established Form I-9 procedures for its newly hired employees who attest in section 1 of the Form I-9 that they are U.S. citizens, with the following exceptions: (1) the Employer agrees that it will only accept U.S. passports as Form I-9 "List A" documents (those documents identified in 8 C.F.R. § 274a.2(b)(1)(A) presented to establish both identity and employment eligibility); (2) the Employer agrees that it will only accept Form I-9 "List B" documents (those documents identified in 8 C.F.R. § 274a.2(b)(1)(B) presented to establish identity) that contain a photograph; and (3) the Employer agrees that it will not require Form I-9 "List C" documents (those documents identified in 8 C.F.R. § 274a.2(b)(1)(C) presented to establish employment eligibility) in addition to acceptable List B documents.

6. The Employer understands that participation in the Citizen Attestation Pilot does not exempt the Employer from the responsibility to complete, retain, and make available for inspection Forms I-9 that relate to its employees, or from other requirements of applicable regulations or laws, except for the following modified requirements applicable by reason of the Employer's participation in the Citizen Attestation Pilot: (1) the changes regarding documents described in paragraphs 4 and 5 above; (2) a rebuttable presumption is established by section 403(b) of IIRIRA that the Employer has not violated section 274A(a)(1)(A) of the INA with respect to the hiring of any individual if it obtains confirmation of the identity and employment eligibility of the individual in compliance with the terms and conditions of the Citizen Attestation Pilot; (3) the Employer must notify the INS if it continues to employ any employee after receiving a final nonconfirmation, and is subject to a civil money penalty between \$500 and \$1,000 for each failure to notify the INS of continued employment following a final nonconfirmation; (4) the Employer is subject to a rebuttable presumption that it has knowingly employed an unauthorized alien in violation of section 274A(a)(1)(A) if the Employer continues to employ any employee after receiving a final nonconfirmation; and (5) no person or entity participating in the Citizen Attestation Pilot shall be civilly or criminally liable under any law for any action taken in good faith on information provided through the confirmation system. The INS reserves the right to conduct Form I-9 compliance inspections during the course of the Citizen Attestation Pilot, as well as to conduct any other enforcement activity authorized by law.

7. The Employer agrees to initiate the Citizen Attestation Pilot verification procedures within 3 Employer business days after each alien employee has been hired (but after both sections 1 and 2 of the Form I-9 have been completed), and to complete as many steps (but only as many) of the Citizen Attestation Pilot process as are necessary according to the Citizen Attestation Pilot Manual. The Employer is prohibited from initiating verification procedures before the employee

**CITIZENSHIP ATTESTATION VERIFICATION PILOT  
MEMORANDUM OF UNDERSTANDING**

has been hired and the Form I-9 completed. If the automated system to be queried is temporarily unavailable, the 3-day time period is extended until it is again operational in order to accommodate Employers attempting, in good faith, to make inquiries during the period of unavailability.

8. The Employer agrees not to use the Citizen Attestation Pilot procedures for pre-employment screening of job applicants, support for any unlawful employment practice, or any other use not authorized by this MOU. The Employer will not verify selectively; it agrees to use the Citizen Attestation Pilot procedures for all new hires to whom they pertain as long as this MOU is in effect. The Employer agrees not to use Citizen Attestation Pilot procedures for reverification, or for employees hired before the date this MOU is in effect. The Employer understands that should the Employer use the Citizen Attestation Pilot procedures for any purpose other than as authorized by this MOU, the Employer may be subject to appropriate legal action and the immediate termination of its access to INS information pursuant to this MOU.

9. The Employer agrees not to take any adverse action against an employee based upon the employee's employment eligibility status while the INS is processing the verification request unless the Employer obtains knowledge (as defined in 8 C.F.R. § 274a.1(l)) that the employee is not work authorized. The Employer understands that an initial inability of the INS automated verification to verify work authorization, or a tentative nonconfirmation, does not mean, and should not be interpreted as, an indication that the employee is not work authorized.

10. The Employer agrees to comply with section 274B of the INA by not discriminating unlawfully against any individual in hiring, firing, or recruitment practices because of his or her national origin or, in the case of a protected individual as defined in section 274B(a)(3) of the INA, because of his or her citizenship status. The Employer understands that such illegal practices can include discharging or refusing to hire eligible employees because of their foreign appearance or language, and that any violation of the unfair immigration-related employment practices provisions of the INA could subject the Employer to civil penalties pursuant to section 274B of the INA and the termination of its participation in the Citizen Attestation Pilot. If the Employer has any questions relating to the anti-discrimination provision, it should contact OSC at 1-800-255-7688 or 1-800-237-2515 (TDD).

11. The Employer agrees to record the verification number on the alien employee's Form I-9 or to print the screen containing the verification number and attach it to the employee's Form I-9.

12. The Employer agrees that it will use the information it receives from the INS pursuant to the Citizen Attestation Pilot and this MOU only to confirm the employment eligibility of newly-hired alien employees after completion of the Form I-9. The Employer agrees that it will safeguard this information, and means of access to it (such as passwords) to ensure that it is not used for any other purpose and as necessary to protect its confidentiality, including ensuring that it is not disseminated

**CITIZENSHIP ATTESTATION VERIFICATION PILOT  
MEMORANDUM OF UNDERSTANDING**

to any person other than employees of the Employer who need it to perform the Employer's responsibilities under this MOU.

13. The Employer agrees to allow the INS, or its authorized agents or designees, to make periodic visits to the Employer for the purpose of reviewing Citizen Attestation Pilot-related records, i.e., Forms I-9, and verification records, that were created during the Employer's participation in the Citizen Attestation Pilot Program. In addition, for the purpose of evaluating the Citizen Attestation Pilot, the Employer agrees to allow the INS or its authorized agents or designees, to interview it regarding its experience with the Citizen Attestation Pilot, to interview employees hired during the Citizen Attestation Pilot concerning their experience with the pilot, and to make employment and Citizen Attestation Pilot-related records available to the INS, or its designated agents or designees.

**ARTICLE III**

**REFERRAL OF INDIVIDUALS TO THE INS**

1. The Employer agrees to refer individuals to the INS only when the verification response received from the INS automated verification process indicates a tentative nonconfirmation, and the employee contests the tentative nonconfirmation. The Employer will determine whether the employee contests the tentative nonconfirmation as soon as possible after the Employer receives it.

2. If the Employer receives a tentative nonconfirmation from the INS, the Employer will record the verification code and date on the Form I-9 or print the screen showing the verification number and attach the printout to the Form I-9, determine whether the employee contests the tentative nonconfirmation, and instruct an employee who contests to contact the INS to resolve the discrepancy within 8 Federal Government work days, using Citizen Attestation Pilot procedures. The INS will electronically transmit the result of the referral to the Employer within 10 Federal government work days from the referral.

**ARTICLE IV**

**SERVICE PROVISIONS**

The INS will not charge the Employer for verification services performed under this MOU. The Employer shall be responsible for providing equipment needed to make inquiries. Equipment needed for participation in the Citizen Attestation Pilot includes a personal computer with a modem.

**CITIZENSHIP ATTESTATION VERIFICATION PILOT  
MEMORANDUM OF UNDERSTANDING**

**ARTICLE V  
PARTIES**

This MOU is effective upon the signature of both parties, and shall continue in effect for as long as the INS conducts the Citizen Attestation Pilot unless modified in writing by the mutual consent of both parties, or terminated by either party upon 30 days prior written notice to the other. The INS may terminate this MOU without prior notice if deemed necessary because of the requirements of law or policy, or upon its determination that there has been a breach of system integrity or security by the Employer, or a failure on the part of the Employer to comply with established procedures or legal requirements. Some or all INS responsibilities under this MOU may be performed by contractor(s).

Nothing in this MOU is intended, or should be construed, to create any right or benefit, substantive or procedural, enforceable at law by any third party against the United States, its agencies, officers, or employees, or against \_\_\_\_\_, its agents, officers, or employees.

Each party shall be solely responsible for defending any claim or action against it arising out of or related to the Citizen Attestation Pilot or this MOU, whether civil or criminal, and for any liability therefrom, including (but not limited to) any dispute between the Employer and any other person or entity regarding the applicability of Section 403(d) of IIRIRA to any action taken or allegedly taken by the Employer.

**CITIZENSHIP ATTESTATION VERIFICATION PILOT  
MEMORANDUM OF UNDERSTANDING**

The foregoing constitutes the full agreement on this subject between the INS and the Employer. The individuals whose signatures appear below represent that they are authorized to enter into this MOU on behalf of the Employer and the INS respectively.

**Employer**

\_\_\_\_\_  
Name (Please type or print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**Immigration and Naturalization Service**

\_\_\_\_\_  
Name (Please type or print)

\_\_\_\_\_  
Title

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**INFORMATION REQUIRED  
FOR THE BASIC PILOT PILOT PROGRAM**

Please provide the following information for each site that will be performing employment verification queries:

Information relating to your **Company**:

Company Name: \_\_\_\_\_

Company Address: \_\_\_\_\_

(Exact Street Address Required for Federal Express Delivery)

\_\_\_\_\_

City

State

Zip Code

County or Parish: \_\_\_\_\_ Employer Identification Number: \_\_\_\_\_

Standard Industry Code (if known): \_\_\_\_\_

**NOTE:** Please provide your Standard Industrial Classification Code (SIC code.) If you do not know the SIC code, please indicate the services your company provides, i.e., manufacturing, wholesale/retail trade, construction, mining, or agriculture, also provide the product type.

Number of Employees: \_\_\_\_\_ Number of Sites Verified for: \_\_\_\_\_

Are you currently participating in an employment verification pilot  Yes  No

If you checked yes, which pilot are you participating in: \_\_\_\_\_

Are you verifying for more than 1 site? If yes, please **provide the number of additional sites**: \_\_\_\_\_

Please provide address for each site that you are verifying for:

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

(if additional space is needed, please provide the information as an attachment to this sheet)

Information relating to the **Person(s) Who Will Perform the Queries**:

User's Name(s): \_\_\_\_\_

User's Telephone Number(s): \_\_\_\_\_

User's Fax Number(s): \_\_\_\_\_

**How many Computers will you install the software on?** \_\_\_\_\_

Information relating to a **Point of Contact** for your Company on policy questions or operational problems:

Name: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Fax Number: \_\_\_\_\_

Please **provide separate sheet for each site that will perform their own verifications**

**CBT USER**