verification identification number and the result obtained from the E-Verify query or print a copy of the transaction record and retain it with the Form I–9.

If SSA is unable to verify information presented by the worker, the employer will receive an ''SSA Tentative Nonconfirmation'' notice. Similarly, if USCIS is unable to verify information presented by the worker, the employer will receive a ''DHS Tentative Nonconfirmation'' notice. Employers can receive a tentative nonconfirmation notice for a variety of reasons, including inaccurate entry of information by the employer into the E-Verify Web site, and changes in the worker's name or immigration status that the worker has not updated in the SSA database searched by the E-Verify system. If the individual's information does not match the SSA or USCIS records, the employer must provide the worker with a written notice generated by the E-Verify system, called a ''Notice to Employee of Tentative Nonconfirmation''. The worker must then indicate on the notice whether he or she contests or does not contest the finding reflected in the tentative nonconfirmation that he or she appears unauthorized to work, and both the worker and the employer must sign the notice.

If the worker chooses to contest the tentative nonconfirmation, the employer must print a second notice generated by the E-Verify system, called a ''Referral Letter,'' which contains information about resolving the tentative nonconfirmation, as well as the contact information for SSA or USCIS, depending on which agency was the source of the tentative nonconfirmation. The worker then has eight Federal Government workdays to visit an SSA office or call USCIS to try to resolve the discrepancy. Under the E-Verify MOU, if the worker contests the tentative nonconfirmation, the employer is prohibited from terminating or otherwise taking adverse action against the worker while he or she awaits a final resolution from the Federal Government agency. If the worker fails to contest the tentative nonconfirmation, or if SSA or USCIS is unable to resolve the discrepancy, the employer will receive a notice of final nonconfirmation and the worker's employment may be terminated.

Participation in E-Verify 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. However, the following modified requirements apply by reason of the employer's participation in E-Verify: (1) Identity documents used for verification purposes must have photos (except as discussed below with respect to accommodations); (2) if an employer obtains confirmation of the identity and employment eligibility of an individual in compliance with the terms and conditions of E-Verify, a rebuttable presumption is established that the employer has not violated section 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of the individual; (3) the employer must notify DHS if it continues to employ any employee for whom the employer has received a final nonconfirmation, and the employer is subject to a civil money penalty between $500 and $1,000 for each failure to notify DHS of continued employment following a final nonconfirmation; (4) if an employer continues to employ an employee after receiving a final nonconfirmation and that employee is subsequently found to be an unauthorized alien, the employer is subject to a rebuttable presumption that it has knowingly employed an unauthorized alien in violation of Immigration and Nationality Act (INA) section 274A(a); and (5) no person or entity participating in E-Verify is civilly or criminally liable under any law for any action taken in good faith reliance on information provided through the confirmation system.

Further information on registration for and use of E-Verify can be obtained via the Internet at *http://www.dhs.gov/E-Verify*.

E-Verify Basis and Development

1. Legislative History

Laws pertaining to the control of illegal immigration have received serious attention from Congress and the Executive Branch since at least the early 1950s. Chief among the legislative approaches to these problems has been the proposed establishment of penalties for the employment of undocumented aliens and related laws requiring the verification of employment authorization. See INA Section 274(a), codified at 8 U.S.C. 1324(a). The House of Representatives Report filed with the Immigration Reform and Control Act of 1986 (IRCA), found at 1986 U.S. Code Cong. and Adm. News, p. 5649, clearly describes the basis for that legislation:

> This legislation seeks to close the back door on illegal immigration so that the front door on legal immigration may remain open. The principal means of closing the back door, or curtailing future illegal immigration, is through employer sanctions. The bill would prohibit the employment of aliens who are unauthorized to work in the United States because they either entered the country illegally, or are in an immigration status which does not permit employment. U.S. employers who violate this prohibition would be subject to civil and criminal penalties. Employment is the magnet that attracts aliens here illegally or, in the case of nonimmigrants, leads them to accept employment in violation of their status. Employers will be deterred by the penalties in this legislation from hiring unauthorized aliens and this, in turn, will deter aliens from entering illegally or violating their status in search of employment. The logic of this approach has been recognized and backed by the past four administrations * * *. Now, as in the past, the Committee remains convinced that legislation containing employer sanctions is the most humane, credible and effective way to respond to the large-scale influx of undocumented aliens. While there is no doubt that many who enter illegally do so for the best of motives—to seek a better life for themselves and their families—immigration must proceed in a legal, orderly and regulated fashion. As a sovereign nation, we must secure our borders.

H.R. Rep. No. 99–682(I), 99th Cong., 1st Sess. 46 (1986), 1986 U.S. Code Cong. & Admin. News, p. 5649. INA Section 274A, as established by IRCA, thus prohibits any ''person or other entity'' from knowingly hiring, or knowingly continuing to employ, any unauthorized alien. INA section 274A(b) provides for an ''Employment Verification System,'' which requires that employers attest, after examination of documentation presented by the employee, that the person being hired, recruited or referred for employment is not an unauthorized alien. INA section 274A also provides for the assessment of civil monetary penalties and cease and desist orders against any employer that has knowingly hired or continued to employ an unauthorized alien, or that has failed to comply with the employment verification system mandated by INA section 274A(b). 8 U.S.C. 1324a(e)(4)–(e)(5).

Employers who engage in a ''pattern or practice'' of violating the prohibition against illegal employment of unauthorized workers may face criminal sanctions. INA section 274A(f), 8 U.S.C. 1324a(f). DHS U.S. Immigration and Customs Enforcement (ICE) investigates complaints of potential violations of INA section 274A by inspecting employment eligibility verification forms maintained by employers with respect to their current and former employees, and compelling the production of evidence or the attendance of witnesses by subpoena. 8 U.S.C. 1324a(e)(2); 8 CFR 274a.2(b)(2).