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*CONGRESSIONAL TESTIMONY*

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**E-Verify: Challenges & Opportunities**

Testimony before  
Committee on Oversight & Government Reform  
Subcommittee on Government Management, Organization, and Procurement  
United States House of Representatives

July 23, 2009

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Madame Chairwoman, Ranking Member Bilbray, and members of the subcommittee, thank you for this opportunity to testify before you today on the topic of E-Verify. My name is Jena Baker McNeill and I am the Policy Analyst for Homeland Security in the Douglas and Sarah Allison Center for Foreign Policy Studies at The Heritage Foundation. The views I express in this testimony are my own, and should not be construed as representing any official position of The Heritage Foundation.

By way of background, The Heritage Foundation has long been engaged on the topic of E-Verify. Heritage experts such as Attorney General Ed Meese, Dr. James Carafano, Dr. Matthew Spalding, Mr. Cully Stimson, Mr. Robert Rector, Mr. Matt Mayer, and I have held working groups and events, and have written and researched extensively on the topic of E-Verify and related matters dealing with the topics of citizenship and assimilation, border security, and enforcement. Previously, I worked as a Research Assistant at Hutchinson Group, LLC, the homeland security consulting firm of Asa Hutchinson, former Undersecretary for Border and Transportation Security at the Department of Homeland Security, and as a consultant for Booz Allen Hamilton. What I would like to do with my testimony today is the following:

- Characterize the role for E-Verify in the broader immigration enforcement strategy.
- Discuss how E-Verify has become a highly effective tool in the enforcement of the nation's immigration laws.
- Suggest ways in which to make E-Verify stronger and better able to serve both the legitimate needs of business, American citizens and lawful immigrant workers.

An effective immigration policy will be one that has the effect of reducing illegal immigration in the United States. At the same time, policies must center on three goals (1) keeping America free, (2) keeping it safe, and (3) keeping it prosperous. We should not compromise one to gain another; all three can and should be met with respect to America's immigration policies.

E-Verify is a tool that meets these requirements. It tackles the immigration problem by going to the heart of what draws illegal immigrants into the U.S.—finding employment. Illegal immigrants come to America more often than not to find jobs. Proof of this can be seen in the decreased numbers of illegal workers in the United States since the economic downturn. The numbers of individuals crossing the border illegally has dropped significantly since jobs have become scarcer and the recession has deepened.<sup>1</sup> It then follows that if access to employment were curtailed in accordance with the law, many of the current illegal immigrants would leave the country voluntarily and the number of future illegal entrants would be greatly reduced.<sup>2</sup> E-Verify helps to do this in a way that is humane and fair, cost-effective for businesses and the American taxpayer, and maintains privacy.

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<sup>1</sup> The Associated Press, "Illegal Immigration Declines as Economy Falters," *Tucson Citizen*, October 2, 2008, at <http://www.tucsoncitizen.com/daily/local/98429.php>. The article cites a report of the Pew Hispanic Center that estimates a 500,000 person decline in one year of illegal immigrants inside the United States. While the report does not identify a reason for the downturn, it highlights independent researchers that suggest both economics and increased enforcement as contributing factors. *Ibid.*

<sup>2</sup> Robert Rector, "Reducing Illegal Immigration Through Employment Verification, Enforcement, and Protection," Heritage Foundation *Backgrounder* No. 2192, October 7, 2008, at <http://www.heritage.org/Research/Immigration/bg2192.cfm>.

It is important to emphasize, however, that E-Verify is only one piece of immigration enforcement. Establishing a robust and responsible immigration system and repairing America's broken borders will require serious efforts across the entire immigration and border security system. But effective enforcement will not require Congress to pass a massive comprehensive bill nor will it require a costly amnesty that would erode the rule of law and be patently unfair to legal immigrants. Reform needs to be incremental and designed to lessen the incentive for illegal immigration, while strengthening the capacity of employers to hire the employees they need to help the economy grow and prosper without jeopardizing the nation's security, sovereignty, and social fabric.<sup>3</sup> The right approach includes the following:

- *Enforcement of immigration and workplace laws* to reduce the economic incentives for illegal immigration. The executive branch is responsible for implementing laws passed by Congress, but immigration reform is only possible if the government defends its laws.
- *Safeguarding the southern border* to make illegal entry into the United States less attractive than legal avenues. The porous southern border makes illegal entry into the United States an easier and more attractive option than the legal avenues. Conscious efforts should be made to give the U.S. government greater awareness along the border. The physical and technological fence is only part of the solution. More border agents are needed, more technology needs to be deployed, and federal authorities need to cooperate and collaborate more with state and local law enforcement.<sup>4</sup>
- *Promotion of economic development and good governance in Latin America* to provide potential illegal immigrants with economic opportunities at home. The lack of job opportunities in Latin America encourages those desperate for work to enter the U.S. illegally. Meanwhile, employers readily offer work to those who are here illegally. This "push-pull" effect can only be addressed by engaging both sides. Aiding Latin American countries in their efforts for economic development will greatly reduce the pressure for their citizens to come to the United States illegally. In Mexico, it is vital that the U.S. help the Mexican government combat the drug cartels that are trying to destabilize it.<sup>5</sup>
- *Enhancing the legal worker programs to provide legal avenues* of immigration that meet the needs of employers and immigrants and are a better option than illegal immigration. For instance, America needs a market-based temporary worker program that allows for a reliable source of labor provided by a dynamic and rotating temporary workforce. Such a program would serve to diminish the demand for illegal immigrants by allowing those who would normally enter the country illegally to come here legally, make money, and then return home. And it would serve the needs of the American economy.
- *Reforms at U.S. Citizenship and Immigration Services (USCIS)* to handle legal immigration better. USCIS needs to be a more efficient and effective partner in providing

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<sup>3</sup> Diem Nguyen, Matt A. Mayer, and James Jay Carafano, Ph.D., "Next Steps for Immigration Reform and Workplace Enforcement," Heritage Foundation *Background* No. 2241, February 13, 2009, at <http://www.heritage.org/Research/Immigration/bg2241.cfm>.

<sup>4</sup> *Ibid.*

<sup>5</sup> *Ibid.*

the immigration services and enforcement that the nation needs. These reforms should include an entirely new funding model, a comprehensive overhaul of the agency's service support enterprise, and better integration of USCIS programs with immigration enforcement and border control efforts. USCIS also needs to streamline the visa programs already in place (such as those aimed at temporary or seasonal agricultural workers).

- *Strengthen citizenship.* Each nation has the responsibility--and obligation--to determine what legal requirements will be established for immigration, naturalization, and citizenship. Since the United States Constitution and laws passed by Congress have already established these requirements, there should be support to programs that promote civics and history education among immigrants and encourage English language proficiency in order to foster political integration and strengthen commitment to our common principles.

### **Immigration's Enforcement History**

In 1986, President Ronald Reagan signed the Immigration Reform and Control Act.<sup>6</sup> In exchange for an amnesty of the approximately 3 million illegal workers living in the U.S., Congress promised voters that the government would take effective measures to eliminate future illegal immigration. A major element of this promised policy was increased employment security: measures designed to prevent or reduce significantly the future hiring of illegal immigrants within the U.S.

Until four years ago, however, it was an open secret that once inside the United States; illegal immigrants could live their lives with little fear of arrest or deportation.<sup>7</sup> Essentially, the promise of real enforcement was never fulfilled because illegal workers were able to obtain forged documents purporting to show that they were either lawful immigrants or U.S. citizens. Furthermore, employers were unwilling or unable to verify the authenticity of these documents, making the federal probation on the hiring of illegal workers nearly meaningless.<sup>8</sup>

### **Using E-Verify**

In 2007, the Bush Administration launched an effort to enhance internal enforcement of immigration laws. This effort led to a decline in the number of illegal immigrants inside of the United States.<sup>9</sup> One major component of this strategy was the use of E-Verify (formerly the Basic Pilot/Employment Eligibility Verification Program).

E-Verify is a system that helps employers to confirm that their newly hired employees are eligible to work in the United States by verifying their information on a Web-based system run

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<sup>6</sup> Public Law 99-603.

<sup>7</sup> Diem Nguyen, Matt A. Mayer, and James Jay Carafano, Ph.D., "Next Steps for Immigration Reform and Workplace Enforcement."

<sup>8</sup> Rector, "Reducing Illegal Immigration Through Employment Verification, Enforcement and Protection."

<sup>9</sup> The Associated Press, "Illegal Immigration Declines as Economy Falts."

by the Department of Homeland Security (DHS) and the Social Security Administration (SSA). The following basic steps occur:<sup>10</sup>

1. An employer enters the employee's information into an online portal; such as the employee's name, date of birth, and Social Security number.
2. The information is securely transmitted to DHS and SSA. DHS checks the information against both DHS and SSA databases to determine whether it corresponds to a U.S. citizen or work-eligible immigrant. In most cases, DHS can do this and transmit a definitive reply to the employer within seconds.
3. If the information cannot be corroborated by the USCIS automated check, the case is referred to a USCIS immigration status verifier, who checks the employee's information against other DHS databases.
4. If the employee information is corroborated by the SSA database, the USCIS automated database, or by the immigration status verifier's review, DHS sends the employer an electronic positive confirmation notice certifying that the employee is an eligible worker. Ninety-four percent of E-Verify submissions receive initial positive confirmations, most within three to five seconds.<sup>11</sup>
5. If the information submitted by the employee does not match any information in the SSA and USCIS records, E-Verify automatically gives the employer the opportunity to double check the submitted information for clerical errors. If clerical errors are found, the employee's data can be resubmitted immediately, and a positive confirmation can be received from DHS within seconds. If no clerical errors are found, or if the information still does not match any information in SSA or USCIS records, then E-Verify issues a *tentative non-confirmation* to the employee.
6. In the case of a *tentative non-confirmation*, the employee has eight federal working days to correct the non-confirmation at a local SSA office (if he/she is a citizen) or a USCIS office (if he/she is a lawful immigrant). These errors can be resolved quite simply by a toll-free phone call. Ninety-five percent of contested non-confirmations are resolved with a single phone call or appointment.<sup>12</sup>
7. If the employee chooses not to contest the tentative non-confirmation or has not provided information to alter the non-confirmation within eight working days, DHS sends a *final non-confirmation* to the employer electronically.
8. After receipt of a *final non-confirmation*, the employer must either (a) discharge the employee or (b) notify DHS that it plans to continue employment. This allows employers to continue employment in situations where they are certain the non-confirmation is incorrect and will be rectified at some point.

### **E-Verify: An Effective Tool for Effective Enforcement**

At present, more than 87,000 employers participate in E-Verify voluntarily. Contributing to this success is that E-Verify helps employers enforce immigration laws in a cheap and user-friendly fashion. For example, the software is free and requires very basic information—information already found on the I-9. Specifically, the program has the following benefits:

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<sup>10</sup> Rector, "Reducing Illegal Immigration Through Employment Verification, Enforcement and Protection."

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

- **Accuracy and Speed.** E-Verify can determine quickly and accurately the authenticity of the personal information and credentials offered by new hires. The accuracy of E-Verify was confirmed in 2007 by a formal evaluation of E-Verify/Basic Pilot for DHS by Westat, an influential private research firm.<sup>13</sup> From October 2005-March 2007, Westat found:
  - More than 90 percent of submissions received an initial positive confirmation; around 1 percent of submissions received an initial tentative non-confirmation that was contested and converted into a final positive confirmation once information discrepancies were corrected; and around 7 percent of submissions resulted in final non-confirmations, nearly all resulting from initial tentative non-confirmations that were never contested.
  - Among all employees who were eventually found to be work-authorized, 99.4 percent received an initial positive confirmation, and 0.6 percent received an initial tentative non-confirmation that was corrected by a brief visit to an SSA or USCIS office.
  - The evaluation found around 5 percent of final non-confirmations under the system may have been authorized workers. However, there were no reported instances in which authorized workers who received a tentative non-confirmation were unable to contest the ruling successfully and establish proper work authorization.

Overall, the evaluation showed that E-Verify was very successful in distinguishing between authorized and unauthorized workers. It also provides a process for correcting erroneous initial findings. Despite years of use and screenings of millions of employees, there has never been a single instance in which a lawful worker lost permanent employment as a result of erroneous information provided by the E-Verify system.<sup>14</sup>

This accuracy also exists in the SSA Database used in E-Verify. When SSA assigns a Social Security number, it creates a Numident file, or master record, of the number and the individual to whom it is assigned. When a newly hired employee is checked through E-Verify, the information provided by the employee is checked against these files. This means that the accuracy of E-Verify is contingent on the accuracy of the Numident files. In 2004-2005, the Office of the Inspector General of SSA conducted an audit of these files to assess their accuracy with respect to E-Verify.<sup>15</sup> Although 4.1 percent of the files were found to contain a data discrepancy, those discrepancies would rarely inconvenience lawful citizens and residents, nor would the errors impede significantly the ability of E-Verify to identify illegal immigrants seeking employment. Roughly two-thirds (1.6 percent) of the discrepancies were of the sort that might result in a "false positive" (where an unauthorized individual receives an erroneous "positive" confirmation), while only one-third were the sort

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<sup>13</sup> Westat reviewed all 2.7 million employee submissions to Basic Pilot/E-Verify between October 2005 and March 2007. *Ibid.* See also Westat, *Findings of the Web Basic Pilot Evaluation*, September 2007.

<sup>14</sup> Robert Rector, "Senate Stimulus Bill Would Provide 300,000 Jobs for Illegal Immigrants," Heritage Foundation *WebMemo* No. 2268, February 4, 2009, at <http://www.heritage.org/Research/economy/wm2268.cfm>.

<sup>15</sup> Rector, "Reducing Illegal Immigration Through Employment Verification, Enforcement and Protection." See also, Social Security Administration, Office of the Inspector General, "Accuracy of the Social Security Administration's Numident File," *Congressional Response Report* No. A-08-06-26100, December 2006.

that would result in a "false negative" non-confirmation. Moreover, the "false negative" discrepancies were clerical matters that could be corrected with little inconvenience.<sup>16</sup>

- **Low Cost to Business.** E-Verify can be done in a cost-effective manner, so that businesses regardless of size can check the legal status of their employees without breaking the bank. Of course, even though the software is free, there is some cost to business from using E-Verify. But the Westat evaluation found low employer costs to set up the system and operate it over a year. For instance, the evaluation found that:
  - Firms with between 100 and 250 employees reported average setup costs and annual operating expenses of \$646, or around \$4.00 per standing employee;
  - Firms with 251 to 500 employees reported average costs of \$746, or around \$2.00 per employee; and
  - Firms with between 501 and 1,000 employees reported average setup and annual operating costs of \$473, or less than \$1.00 per employee.<sup>17</sup>

Furthermore, knowing beforehand that an employee can legally work will minimize the cost of having to hire new employees later.

The Office of Management and Budget (OMB) examined the costs of requiring federal contractors to use E-Verify for their employees.<sup>18</sup> OMB estimated that firms would incur start-up and administrative costs of around \$15 per vetted employee, primarily for the initial and recurring costs of training personnel to use the system, and that the operational cost of actually processing individuals (including the costs of dealing with temporary and final non-confirmations) would be around \$6.70 per processed employee. Thus, the overall costs to business to administer and operate E-Verify would total about \$22 for each employee checked. OMB did not consider whether costs could be cut by contracting out with designated agents or other personnel service companies. DHS does have "designated agents" who process E-Verify queries for other U.S. businesses on a fee-for-service basis. These firms, on average, charge between \$2 and \$15 per employee submission and give a means for small businesses to contract out the process for additional cost savings.<sup>19</sup>

- **Maintains Privacy.**<sup>20</sup> The only personal information entered into E-Verify is the employee's name, date of birth, Social Security number, and citizenship status. This information is already included in the official I-9 forms that the employer completes for each employee. E-Verify does not allow employers to examine information from the Social Security Administration or other government agencies. Furthermore, the government already has this information in its records and routinely collects similar information as part of the new-hire process and for purposes of collecting income and FICA taxes. The DHS employees who operate the E-Verify system only have access to the information submitted through E-Verify

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<sup>16</sup> *Ibid.*

<sup>17</sup> *Ibid.*

<sup>18</sup> *Ibid.* See also *Office of Management and Budget, Regulatory Impact Analysis, Employment Eligibility Verification Federal Acquisition Regulation; FAR Case 2007-013, Notice of Proposed Rule Making, May 29, 2008.*

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

and the SSA confirmation or non-confirmation of that information. They do not have access to the larger SSA employment history and earnings files for individuals nor can DHS employees view or examine SSA records; they can merely corroborate that the limited identity data submitted for an individual through E-Verify matches information in the SSA files.<sup>21</sup>

## **E-Verify: Opportunities Going Forward**

Perhaps the biggest challenge facing E-Verify at this time is the future viability of the program. If Congress does not reauthorize E-Verify by September 30, 2009 it will expire. Furthermore, DHS has yet to implement the federal contractors provision signed by President Bush in June of 2008. This executive order directs all federal departments and agencies to require contractors (as a condition for obtaining future federal contracts) to agree to use E-Verify. This is a needed provision given the recent stimulus, where hundreds of thousands of new construction jobs are coming available—and should go to those lawfully able to work in the U.S., giving the near record high unemployment. At present, all federal employees are checked by the E-Verify system, but outside contractors receiving federal funds are not required to use the system.

E-Verify is not without its challenges, however, and it should be the burden of DHS and Congress to work together to continually drive down its already low error rates and find ways to enforce the law in areas E-Verify is not effective. For example, E-Verify cannot catch either identity fraud or “off the books” employment.<sup>22</sup> In an identity fraud situation, the illegal employee presents identity documents to the employer showing that he is either a U.S. citizen or lawful immigrant entitled to work. However, in this case, the name, date of birth, Social Security number and (in some cases) the green card number on the documents corresponds to the identity of a real U.S. citizen or lawful immigrant. E-Verify can catch, and is very effective at discovering illegal immigrants working under a fictitious Social Security number, green card number, name, and/or date of birth—significantly reducing the opportunity to work illegally.

In order to use E-Verify to administer smart and tough enforcement of America’s immigration laws, Congress and DHS should work together to take the following steps:

- **Permanently reauthorize E-Verify and provide adequate funding for implementation.** Unless Congress steps in, the law authorizing E-Verify is set to expire. Congress should extend E-Verify as a voluntary program and provide the funding needed for its continued and aggressive expansion and improvement.<sup>23</sup>
- **Implement the E-Verify Contractors Provision.** While there was a recent announcement that the Administration planned to abide by the provision that would require federal contractors to comply with E-Verify, it is not clear whether the Administration will fully comply with the intent of the previous Administration to apply E-Verify to *all* federal

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<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> Jena Baker McNeill and Matt A. Mayer, “Don’t Let E-Verify Perish in the Next Congress,” Heritage Foundation *WebMemo* No. 2097, October 8, 2008, at <http://www.heritage.org/Research/HomelandSecurity/wm2097.cfm>.



contract employees. It is not clear however, how the Administration plans to interpret the federal contractors provision. It looks as though E-Verify will only be applied only to new employees hired specifically for the contract work. This means that if a construction firm hires an unlawfully present individual and then one week later assigns him to work on a federal contract project, this unlawful individual would be considered an "existing employee" not subject to E-Verify.<sup>24</sup> This Administration must craft the E-Verify rules to apply to all existing employees working for the federal government *and* under federal government contracts; otherwise the result would be less workplace enforcement, not more.

- **Reducing Erroneous Non-Confirmations in E-Verify.** While E-Verify is effective in identifying a high level of potential unlawful employment, the Westat analysis estimated that around 5 percent of E-Verify's final non-confirmations were erroneous (meaning that these individuals were actually legal workers).<sup>25</sup> It is vital that DHS and Congress work together to drive down error rates in order to make the process as effective as possible—getting employees confirmed so that they can get to work and business can thrive. A few small changes could help to make this possible:
  - *Work to reduce simple errors.*<sup>26</sup> Nearly all erroneous tentative non-confirmations stemming from E-Verify are the result of simple errors in the databases (such as misspelled names, maiden names, clerical errors in date of birth, or missing date of birth, and most commonly missing naturalization data). DHS has taken steps to reduce error based on missing naturalization data significantly by checking both SSA and USCIS files before issuing a tentative non-confirmation. However, USCIS does not have data on naturalizations that occurred before 1995 in electronic format. Converting these earlier naturalization data into an electronic form would further reduce this source of error. Also, encouraging women to enter both maiden and married names as part of their E-Verify input would be beneficial.
  - *Give individuals the opportunity to determine the accuracy of SSA data.*<sup>27</sup> Individuals should be able to confirm the accuracy of their personal SSA/USCIS files independently of the job application process, helping to eliminate the infrequent but real prospect of being turned down for a job opening because of an erroneous tentative non-confirmation stemming from a clerical error. Under present conditions, an individual may not become aware of problems in his/her SSA file until applying for retirement benefits. But it is better to correct faulty SSA data sooner than later because individuals who are employed with faulty or SSA identity records may not get full credit for their employment for purposes of calculating future benefits. It is in the best interest of the individual, DHS, and SSA to correct problems as soon as possible.

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<sup>24</sup> James Jay Carafano, Ph.D., "Homeland Security Department Guts Workplace Enforcement."

<sup>25</sup> Rector, "Reducing Illegal Immigration Through Employment Verification, Enforcement and Protection."

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

- **Encourage state and local initiatives.** Several states, such as Arizona, have made the use of E-Verify mandatory, which courts have found permissible.<sup>28</sup> Furthermore, 287(g) programs have made a difference in controlling illegal immigration by allowing state and local law enforcement to act in the stead of ICE agents. Efforts like these should be supported because they act as force multipliers in the nation’s immigration enforcement effort.

### **Enforcement without No-Match: Less Enforcement**

The Secretary of Homeland Security recently announced plans to rescind the 2007 Social Security No-Match Rule. This is a significant impediment to overall immigration enforcement and the success of E-Verify. Beginning in 1994, SSA started sending no-match letters to employers who submitted 10 or more W-2 forms that could not be matched to SSA records or who have no-matches for more than one-half of 1 percent of their workforces.<sup>29</sup> These letters inform employers of the no-matches and explain common reasons for them, such as typographical errors, name changes, and incomplete W-2 forms.

In 2007, DHS launched an effort to persuade more employers to use no-match letters to determine whether their employees are authorized to work in the United States and to terminate those who are not. It issued a new rule clarifying that receipt of a no-match letter "may," constitute constructive knowledge that a worker is unauthorized—which could subject an employer to penalty for not following the law. It also granted employers a safe harbor from immigration enforcement actions if they took certain actions, such as double-checking their records.<sup>30</sup> DHS also drafted an insert, to accompany no-match letters, explaining how to take advantage of the safe harbor.

In 2007, however, a federal court issued a preliminary injunction against enforcement of the new rule and mailing of the inserts on the grounds that DHS did not sufficiently justify its change in policy, may not have the statutory authority to promise an additional safe harbor from anti-discrimination lawsuits on the basis of actions taken in response to the receipt of no-match letters, and did not conduct a required "regulatory flexibility analysis."<sup>31</sup> In response, DHS proposed a supplemental rule, effectively resolving the court's three concerns. The recent DHS press release, however, stated that the department was abandoning "no-match" because of this legal challenge. There is every reason to believe that the judge would be forced to lift the stay if this Administration pushed the issue in court. Indeed, any efforts at real workplace enforcement are likely to be challenged in the courts. Offering court challenges as an excuse to make bad public policy is unacceptable.

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<sup>28</sup> Diem Nguyen, Matt A. Mayer, and James Jay Carafano, Ph.D., “Next Steps for Immigration Reform and Workplace Enforcement.”

<sup>29</sup> James Jay Carafano, Ph.D., “Homeland Security Department Guts Workplace Enforcement,” Heritage Foundation *WebMemo* No. 2535, July 10, 2009, at <http://www.heritage.org/Research/HomelandSecurity/wm2535.cfm>.

<sup>30</sup> “An employer will not be considered to have constructive knowledge...if the employer (1) checks its records to ensure that it did not make a clerical error; (2) asks the employee mentioned in the letter to confirm the accuracy of his or her information; (3) if necessary, asks the employee to resolve the issue with SSA within 90 days of receipt of the letter; and (4) if the issue was not resolved, attempts to re-verify the employee's employment eligibility without using any documents containing a disputed Social Security number.” Rector, “Reducing Illegal Immigration Through Employment Verification, Enforcement, and Protection.”

<sup>31</sup> *Ibid.*

The Secretary's decision means that the Department will perform less-not more—workplace checks. Enforcing workplace laws is a vital component to create disincentives to unlawful immigration. Congress should not authorize or fund efforts to scale back workplace enforcement and should work to facilitate this type of information sharing. This can happen through the following steps:

- **Reject DHS Plans to Abandon Amended No-Match Rule.** Congress should reject the plan announced by DHS to abandon the 2007 amended “no-match” letter rule. It is the responsibility of Homeland Security to enforce the law in a manner that is both reasonable and effective. Congress should not let it stand.<sup>32</sup>
- **Facilitate information sharing between DHS and SSA.** DHS needs to be able to target employers that willfully hire unlawfully present labor. A far better policy than simple no-match letters would be for the SSA to routinely share no-match data directly with DHS. Congress should craft legislation that specifically authorizes SSA to routinely this data directly with DHS. Allowing this sharing and giving DHS the resources and authority to target large-scale employers in the sectors of the economy where undocumented workers are most present (e.g., agriculture, services industries, and construction) would provide incentives and enforcement measures to wean employers from the shadow workforce.<sup>33</sup>

## Conclusion

Government policy should be based on the principles of *empowerment*, *deterrence*, and *information*. It should empower honest employers by giving them the tools to determine quickly and accurately whether a new hire is an authorized worker. It should hold employers free from penalty if they inadvertently hire an illegal worker after following the prescribed procedures.<sup>34</sup>

E-Verify is the most promising employment verification system in existence in the United States, and it should be continued. But the future of E-Verify is in the hands of Congress. It should be permanently reauthorized and fully funded in order to expand and be used effectively. Until E-Verify is more broadly adopted throughout the U.S. workforce, E-Verify must be complemented by a robust Social Security no-match process that assists employers by specifically spelling out their obligations. By rescinding the 2007 no-match letter amended rule, the Administration is effectively saying that it will not enforce the law against employing illegal immigrants or the overwhelming bulk of U.S. employers.<sup>35</sup> It is giving employers of unauthorized aliens legal cover and an excuse not to follow the law.

DHS will never be able to arrest and identify every illegal immigrant in our country. However, the choice between mass roundups and amnesty is a false dichotomy. A third alternative exists: By seriously enforcing the laws against illegal immigration in the U.S., the government can remove the incentives for illegal immigrants to enter and remain in this country, thereby causing the bulk of them to return home and sharply reducing future inflows. Hiding

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<sup>32</sup> James Jay Carafano, Ph.D., “Homeland Security Department Guts Workplace Enforcement.”

<sup>33</sup> *Ibid.*

<sup>34</sup> *Ibid.*

<sup>35</sup> *Ibid.*

behind the mantra that E-Verify isn't perfect or needs further improvement is the functional equivalent of not enforcing immigration laws.<sup>36</sup>

In closing, as part of a broader immigration plan, employment verification should be done in the most effective manner possible, one that is cost-friendly; protects individual data and privacy; minimizes the burden on employers; and addresses concerns over security and public safety. Nothing less is acceptable. And nothing less will keep America free, safe, and prosperous. Thank you.

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<sup>36</sup> Rector, "Reducing Illegal Immigration Through Employment Verification, Enforcement, and Protection."

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