



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

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Business and Foreign Workers Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Service 5900 Capital Gateway Drive
Camp Springs, MD 20746

Submitted via <http://www.regulations.gov>

Re: Agency Information Collection Activities; Revision of a Currently Approved Collection: E-Verify Program [OMB Control Number 1615-0092] [Docket ID USCIS-2007-0023]

To Whom it May Concern:

The American Immigration Lawyers Association (AILA) respectfully submits this comment in response to the information collection (1615-0092) published in the Federal Register on May 13, 2026 by U.S. Citizenship and Immigration Services (USCIS).

Established in 1946, AILA is a voluntary bar association of more than 18,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We believe that our members' collective expertise and experience make us particularly well-qualified to offer views on this matter.

AILA appreciates USCIS's continuing efforts to modernize E-Verify and recognizes that several of the proposed changes are intended to improve system functionality, enhance security, and streamline program administration. However, the proposal also includes one of the most significant functional expansions of E-Verify in many years: the addition of reverification functionality within the E-Verify platform. Because these changes raise important statutory, operational, and practical considerations, our comments begin by addressing that proposal. In addition, AILA offers several recommendations intended to improve the clarity, practical utility, and implementation of other aspects of the proposed information collection under the Paperwork Reduction Act.¹

I. The Proposed Expansion of E-Verify to Include Reverification Raises Significant Statutory and Practical Questions

¹ See 44 U.S.C. § 3506(c)(2)(A); 5 C.F.R. § 1320.8(d).

One of the most significant changes included in this information collection is the proposal to add reverification functionality to E-Verify. According to the Summary of Changes, E-Verify will now "support electronic reverification when an employee's work authorization expires," with the stated objective of aligning the system more closely with the existing Form I-9 reverification process. Left unclear is whether the program will mandate such an action.

AILA is concerned that this proposal raises threshold questions regarding the scope of USCIS's statutory authority. Congress authorized E-Verify as an electronic employment eligibility verification pilot program for newly hired employees.² By contrast, reverification has long existed as a separate employer obligation completed through Supplement B (formerly Section 3) of Form I-9 pursuant to implementing regulations.³ The materials accompanying this proposal do not explain the statutory basis for extending E-Verify beyond its traditional hiring function or whether Congress intended reverification to fall within the scope of the existing E-Verify program.⁴ Because the proposal appears to represent a significant expansion of E-Verify's role, USCIS must fully explain the statutory and policy basis for this change before the information collection is approved.⁵

Separate from those threshold statutory questions, the proposal also raises important concerns under the Paperwork Reduction Act. The addition of reverification introduces an entirely new E-Verify workflow governing existing employees rather than newly hired employees. Yet the published materials consist primarily of interface screenshots and a high-level summary, making it difficult for stakeholders to meaningfully evaluate how the proposed workflow is intended to operate, assess its practical utility, or determine whether the associated burden has been accurately estimated.⁶

For example, the proposal does not indicate whether reverification is intended only for employees who were previously submitted through E-Verify or whether employers will also be expected to initiate reverification cases for employees who have never had an E-Verify case. Similarly, while the proposed workflow appears to permit updates to certain identifying information, the published materials do not describe how the process is intended to account for an employee's change in citizenship status to lawful permanent resident after the original E-Verify case was created.

These are not merely technical implementation details. They directly and substantively affect an employer's ability to understand the proposed collection, evaluate its practical utility, and determine how the new workflow should be incorporated into existing Form I-9 compliance procedures. Accordingly, USCIS must provide additional explanation regarding the operation of the proposed reverification workflow, clarify the circumstances under which employers will be expected to use it, and more fully explain the statutory and policy basis for this significant expansion of E-Verify.

² Division C of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, §§ 401–405, 110 Stat. 3009-655 (1996). See also INA § 274A note (Pilot Programs for Employment Eligibility Confirmation).

³ See 8 C.F.R. § 274a.2(b)(1)(vii).

⁴ AILA recognizes that certain federal contractors have long been subject to separate E-Verify requirements under the Federal Acquisition Regulation. Those requirements arise under a distinct statutory and regulatory framework and do not address the proposed incorporation of reverification functionality into E-Verify. See 48 C.F.R. §§ 22.1802–22.1803, 52.222-54.

⁵ Agencies possess only the authority delegated by Congress. See *Louisiana Public Service Commission v. FCC*, 476 U.S. 355, 374 (1986) ("an agency literally has no power to act ... unless and until Congress confers power upon it").

⁶ See Supporting Materials accompanying Docket No. USCIS-2007-0023, E-Verify Screenshots, Regulations.gov, <https://www.regulations.gov/document/USCIS-2007-0023-0097>.

II. USCIS Must Further Explain the Estimated Burden Associated with Reverification

As discussed above, the proposal introduces a significant new workflow supporting reverification within E-Verify. The Federal Register notice estimates that employers will require approximately 0.06 hours (3.6 minutes) to complete each reverification transaction.⁷ While that estimate may reasonably reflect the time required for an experienced user to complete a straightforward reverification once the functionality has been fully implemented, the published materials do not explain whether the estimate also accounts for the broader implementation activities that necessarily accompany the introduction of a new information collection.

The burden associated with a new information collection extends beyond the time required to complete an individual transaction. Before employers can begin using the proposed reverification functionality, they will need to review revised guidance, evaluate how the new workflow interacts with existing Form I-9 reverification obligations, update internal policies and procedures, revise training materials, and ensure that human resources personnel understand when and how reverification through E-Verify should be used. These implementation activities represent a meaningful component of the overall burden associated with the proposal, yet the published materials do not indicate whether they were considered as part of the agency's burden estimate.

The published materials also include estimates regarding both the anticipated number of respondents and the estimated time associated with the various E-Verify activities. However, the notice does not explain the methodology or assumptions used to develop these figures. Moreover, based on the information provided, it is difficult to reconcile the published total annual burden with the individual respondent counts and per-response burden estimates set forth in the notice.⁸ The materials appear to assume additional information, such as the anticipated number of annual responses, that has not been disclosed. Without additional explanation regarding these assumptions, stakeholders cannot meaningfully evaluate whether the estimated burden has been accurately calculated.

Accordingly, AILA recommends that USCIS supplement its burden analysis to more fully describe the assumptions underlying the estimated burden for reverification in E-Verify, including both the estimated time required to complete individual transactions and the methodology used to estimate anticipated program participation. Providing additional transparency regarding these assumptions would better enable stakeholders to evaluate the necessity, practical utility, and burden of the proposed information collection under the Paperwork Reduction Act.

III. Additional Recommendations to Improve the Clarity and Utility of the Proposed Information Collection

⁷ 91 FR 27075 (May 13, 2026).

⁸ Based on the figures published in the Federal Register Notice, multiplying the estimated number of respondents by the estimated burden per response yields roughly 503,855 hours (149,906 for enrollment + 66,330 new user training + 179,335 annual training + 65,756 TOS training + 28,554 queries/initial cases + 13,974 reverification). The notice, however, reports a total annual burden of 2,045,781 hours.

In addition to the comments above regarding the proposed reverification functionality, AILA offers the following recommendations to improve the clarity, practical utility, and implementation of other aspects of the proposed information collection.

A. Provide Additional Information Regarding the Proposed Terms of Service

The proposal would replace the longstanding Memorandum of Understanding (MOU) with a new Terms of Service (TOS) governing enrollment in E-Verify.⁹ While AILA appreciates USCIS's efforts to consolidate program documentation, the proposed TOS itself does not appear to have been published as part of the information collection materials. Instead, references to the TOS appear only within screenshots of the proposed enrollment workflow. Because the TOS will establish the legal obligations governing participation in E-Verify, stakeholders should have an opportunity to review the document itself before submitting comments on the proposal.

Separately, AILA has concerns regarding the proposed change in terminology from "Memorandum of Understanding" to "Terms of Service." For more than two decades, employers, practitioners, state legislatures, and agency guidance have consistently referred to the governing enrollment document as the Memorandum of Understanding or simply MOU. Replacing that well-established terminology with "Terms of Service" may inadvertently suggest that the agreement is comparable to a standard software license or online click-through agreement rather than a document establishing substantive program obligations. If USCIS proceeds with this terminology, additional explanation regarding the purpose and legal significance of the revised agreement would be beneficial.

B. Explain the Practical Utility of the Proposed Document Information Questions

The proposal would add three new questions within the Document Information portion of the E-Verify case creation process asking (1) how the employer examined the employee's documents, (2) whether the documents submitted by the employee appear to be correct, and (3) whether the employee is a remote hire. AILA recommends that USCIS more fully explain the practical utility of collecting this additional information.

First, the proposal appears to collect substantially the same information through two separate questions. Employers are first asked how they examined the employee's documents, with the available responses being either physical document examination or remote document examination under DHS's alternative procedure. Employers are then separately asked whether the employee is a remote hire. However, the accompanying helper text appears to define a remote hire by reference to the same alternative procedure identified in the earlier question. During USCIS' April 14, 2026 listening session regarding Version 32 of the E-Verify Interface Control Agreement (ICA), USCIS explained that these questions are intended to capture different concepts – specifically, the employee's work location and the method used to examine documents. That distinction, however, is not apparent from the proposed information collection materials. USCIS should revise the accompanying instructions or helper text to clearly explain the purpose of each question and the circumstances in which the responses may differ. In addition, USCIS should explain the practical utility of collecting this information and how it will be used in administering the E-Verify program.

⁹ The Summary of Changes states that USCIS intends to replace six different enrollment agreements (MOUs) with a single, easy-to-read Terms of Service. See USCIS, Summary of Changes, Docket No. USCIS-2007-0023, supporting materials at [regulations.gov](https://www.regulations.gov).

Second, the question asking whether the employee's documents "appear to be correct" appears duplicative of the employer's existing certification in Section 2 or Supplement B of Form I-9 that the documents reasonably appear to be genuine and relate to the individual presenting them. Because employers are already required to make this determination as part of completing Form I-9, USCIS should explain the practical utility of collecting the same information again during E-Verify case creation.

C. Explain the Practical Utility of Additional Interface Control Agreement Data Elements

Concurrently with this information collection, USCIS has announced revisions to the E-Verify Interface Control Agreement (ICA) version 32, which governs Web Services integrations used by E-Verify employer agents and E-Verify web services employers.¹⁰ Among other changes, the updated ICA introduces several new data elements, including an I-766 extension method, TPS designated country, and DED covered country fields that appear intended to support the functionality proposed in this information collection.

Because employers are instructed that information entered into E-Verify should be taken from the completed Form I-9, it is not apparent how employers are expected to accurately provide these additional data elements. Unlike many of the data elements currently submitted to E-Verify, this information generally is not recorded on Form I-9, nor does existing Form I-9 guidance instruct employers to capture or document it during the employment eligibility verification process. AILA recommends that the agency provide additional explanation regarding these issues before implementing the proposed changes. To the extent that it is, USCIS can infer the required information – the type of extension being used – by running the document number through its own databases.

D. Explain the Purpose and Practical Utility of the Proposed Hiring Site Requirement

The proposal would require employers to identify the applicable hiring site when creating an E-Verify case. While this information may be readily available for some employers, many long-standing E-Verify participants have not routinely maintained or updated hiring site information within their E-Verify accounts because doing so has not previously been necessary for case creation.

As a result, employers may need to create or update hiring site information before they can submit an E-Verify case. These additional administrative steps may increase the time required to complete cases, particularly where employers discover outdated account information during the three-business-day period for creating an E-Verify case.

The proposal also does not explain the practical utility of collecting hiring site information or how USCIS intends to use the data. AILA recommends that USCIS explain the purpose of this new requirement and consider whether the resulting administrative burden is justified by the anticipated benefit.

E. Publish Implementation Guidance Prior to Deployment

¹⁰ See <https://www.e-verify.gov/about-e-verify/whats-new/e-verify-draft-ica-v32-now-available-for-review-register-for-upcoming>.

Given the significance of the proposed changes, particularly the addition of reverification functionality within E-Verify, AILA encourages USCIS to publish updated policy guidance and educational materials sufficiently in advance of implementation. Advance guidance addressing the operation of the new workflow, common compliance scenarios, and the interaction between E-Verify and Form I-9 Supplement B would promote more consistent employer compliance, reduce avoidable errors, and ultimately lessen the administrative burden on both employers and the agency.

Conclusion

AILA appreciates the opportunity to comment on the proposed revisions to the E-Verify Program information collection. We respectfully encourage USCIS to provide additional explanation regarding the statutory basis, practical utility, and estimated burden associated with the proposed changes, including the proposed reverification functionality. Doing so will assist stakeholders and OMB in meaningfully evaluating the proposed collection under the Paperwork Reduction Act. AILA appreciates USCIS's consideration of these comments.

Respectfully Submitted,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION