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General Accounting Office  
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General Government Division

B-277257

July 17, 1997

The Honorable Spencer Abraham, Chairman  
The Honorable Edward M. Kennedy  
Ranking Minority Member  
Subcommittee on Immigration  
Committee on the Judiciary  
United States Senate

The Honorable Lamar S. Smith, Chairman  
The Honorable Melvin Watt  
Ranking Minority Member  
Subcommittee on Immigration and Claims  
Committee on the Judiciary  
House of Representatives

Subject: Immigration and Naturalization Service: Employment Verification Pilot Project

As part of our general oversight responsibilities, we initiated a review of an INS demonstration project to help employers verify work eligibility for newly hired noncitizen workers. The Immigration Reform and Control Act of 1986 (IRCA) requires employers to verify that all newly hired employees are authorized to work in the United States.<sup>1</sup> The act also authorizes demonstration projects aimed at improving the employment verification system. Pursuant to this authority, the Immigration and Naturalization Service (INS) is conducting a demonstration project focusing on all newly hired noncitizen employees. Under this Employment Verification Pilot (EVP) project, participating employers are able to query, via computer, the INS database to check the employment eligibility of newly hired employees who certify on the Form I-9 that they are noncitizens. Those not confirmed as employment-authorized under this procedure are to be given the opportunity to resolve their status by contacting the INS directly.

<sup>1</sup>INS requires all newly hired employees to present documents that establish identity and work eligibility and to complete Form I-9 attesting to the accuracy of the information. Employers also certify on Form I-9 that the documents appear to be genuine and to relate to the individual.

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During our initial work, Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, which requires us to review other immigration-related issues. Because of these priorities, we are discontinuing this review. However, in the course of our initial work, we obtained information that may help you in your oversight of INS' employment verification demonstration projects. Specifically, we obtained information on the number of noncitizens that INS was able to verify through electronic means as being employment-authorized, the number not verified and why, and INS' determinations for those who contacted INS to resolve their status. We are addressing this letter, which provides a summary of the results of our preliminary work, to you because of your Subcommittees' interest in immigration issues.

### RESULTS IN BRIEF

Under the EVP project, in response to nearly 45,000 queries over about a 16-month period, the INS electronically verified 80 percent of self-certified noncitizen new hires as authorized to work. The remaining 20 percent did not receive electronic verification either because the INS could find no information on the noncitizens or the INS determined that documentation presented by noncitizens was counterfeit, had expired, or indicated that employment was not authorized. Of those noncitizens who did not receive electronic verification, only 3 percent contacted the INS to resolve their status. Table 1 summarizes our findings.

Table 1: Status Verification Results From the EVP Project From September 25, 1995, Through January 10, 1997

Category	Number	Percent
Verified electronically	36,024	80%
Not verified electronically	8,805	20
<b>Total</b>	<b>44,829</b>	<b>100%</b>
<b>Reasons verification not given</b>		
Counterfeit document	6,371	72
Unauthorized employment	1,000	11
Expired document	329	4
No information found	1,105	13
<b>Total</b>	<b>8,805</b>	<b>100%</b>
<b>Contacted INS to resolve status</b>		
Employment authorized	150	64
Not employment-authorized	86	36
<b>Total</b>	<b>236</b>	<b>100%</b>

Source: INS.

EMPLOYMENT VERIFICATION PILOT (EVP)

The INS believes employers who fully intend to comply with the law may find it difficult to distinguish between legitimate documents presented by employees to show employment eligibility and those that may be counterfeit or fraudulent. EVP is designed to aid employers in verifying the employment eligibility of newly hired noncitizen employees.

Employers who participate in EVP use the automated verification process in addition to, not in lieu of, standard verification procedures (see footnote 1). The EVP began in September 1995.<sup>2</sup> As of January 1997, there were about 1,012 employers around the country participating in EVP. Under EVP, using a computer and a modem, employers query an INS database for verification of noncitizens' employment eligibility. To access the database, the employer must enter an access code, password, and personal identification number. The employer can then query the database using the noncitizen's alien number (A-number), month and year of birth, first initial of first name, and date of hire. Within a few seconds, the employer receives one of two responses: "employment authorized" or "institute secondary verification." This initial check is referred to as primary verification.

For those not verified as employment-authorized during the primary verification, a secondary electronic verification process is instituted. Under this process, employers enter into the computer information contained in the Form I-9 (and sometimes in copies of documents attached to the Form I-9) so that the INS can do a more thorough search of its other internal indexes and records. INS staff in the Los Angeles District office, referred to as "status verifiers," perform all the secondary verifications. According to the supervisor of the Los Angeles status verification unit, the unit has generally been able to resolve all secondary verifications and provide results to the employer within 48 hours.

After the secondary verification process is completed, the employer again receives one of two responses, either "employment authorized" or "unable to verify." If an employer receives an "unable to verify" response to a secondary verification query, procedures require the employer to notify the noncitizen employee of this result and then allow the employee 30 calendar days to contact the INS to try to resolve the work-status issue. The noncitizen employee can either visit a local INS office or, beginning in September 1996, call and/or fax information directly to an INS status verifier in Los Angeles via a toll-free number. This final check is referred to as third-step verification. An employer who continues to employ an unauthorized noncitizen may be subject to a civil fine. Employers may not terminate or take any other adverse action against employees for reasons related to their immigration status while EVP verification is pending.

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<sup>2</sup>The EVP project is an expansion of the Telephone Verification Pilot, which began in March 1992. Phase I of the TVP included nine employers in five states—California, Florida, Illinois, New York, and Texas. Phase II of the TVP began in September 1995 and included over 200 employers in California. The EVP began in May 1996 and includes over 1,000 employers nationwide.

MOST PRIMARY AND SECONDARY VERIFICATIONS  
RESULTED IN EMPLOYMENT AUTHORIZATION

Between September 25, 1995, and January 10, 1997, INS received 44,829 requests for verification under EVP. Of those requests, 27,737, or 62 percent, received verifications of employability during the primary verification process. The remaining 17,092, or 38 percent of the cases, required a secondary verification.

Status verifiers determined that 8,287 of the 17,092 noncitizens requiring secondary verification, or 48 percent, were authorized to work in the United States. According to the supervisor of the Los Angeles status verification unit, most of these individuals were found to be employment-authorized during the secondary, rather than the primary, verification process because there was a delay in getting information about those who recently received employment authorization into the employment verification database. In March 1995, a Department of Justice Inspector General report found that nearly 120,000 employment authorization actions had not yet been entered into INS' main database.<sup>3</sup> The report concluded that this delay in the input of employment authorization actions could hinder INS' ability to verify employment in a timely manner.

REASONS SOME EMPLOYMENT AUTHORIZATIONS WERE NOT VERIFIED

The EVP did not verify as work authorized 8,805, or 20 percent, of the original primary verification queries. Status verifiers classified each of these 8,805 cases into one of four categories. Three of the four categories denote that INS found some indication that the noncitizen was not authorized to work in the United States.

Counterfeit INS Document Presented

Of the 8,805 cases where work authorization could not be verified, the INS status verifiers classified 6,371 cases, or about 72 percent, as "counterfeit." Cases were to be classified as counterfeit when the noncitizen presented a document purporting to be an INS document, but on which the name and/or A-number did not correctly match INS' records.

Employment Not Authorized

The INS status verifiers classified 1,000 cases, or 11 percent, as "unauthorized employment." This classification was used when status verifiers found the noncitizen's record in one of the INS' databases, but the record indicated that the person was not authorized to work. According to the supervisor of the Los Angeles status verification unit, this situation typically occurs when an alien comes into the United States as a visitor without work authorization and then tries to secure employment.

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<sup>3</sup>Department of Justice, Office of the Inspector General, Immigration and Naturalization Service Employment Authorization Document Program (I-94-07, March 1995).

### Work Authorization Document Expired

INS status verifiers classified 329 cases, or about 4 percent, as "expired documents." This classification was used when status verifiers found the noncitizen's record in one of INS' databases, but the record indicated that the noncitizen's authorization to work had expired. (In many cases, the work authorization may have been extended, but the data had not yet been entered into the automated system.) The INS status verifiers then would call the INS office that issued the document to check whether work authorization was renewed. If the records indicated a renewal of the work authorization, the employer would be notified that the employee was authorized to work.

### Information Not Found in INS' Records

The INS status verifiers classified 1,105 cases, or about 13 percent, as "no information found." In these cases, the documents presented to the employer were not issued by INS, and no information on these individuals was found in INS' records. Although noncitizens are required to provide their A-number, they are not required to present their INS documents. Since the noncitizen presented non-INS documents, the status verifier would not classify the case as a counterfeit.

### FEW NONCITIZENS ATTEMPTED TO RESOLVE THEIR EMPLOYMENT AUTHORIZATION STATUS

The INS procedures provide noncitizens who do not receive employment verification as a result of secondary verification with a final, third-step opportunity to resolve their status by contacting INS directly. However, only a small percentage did so. Department of Justice officials and representatives of immigrants' rights groups told us that they were concerned about noncitizens who did not contact INS after the first two verification steps failed to confirm their work eligibility. They said that one cannot assume that everyone who does not contact INS lacks work authorization. They pointed out that there may be other reasons why a person authorized to work does not contact the INS to resolve his or her employability status. They said that the noncitizen might, for example, have been unable to get off work or lacked the means to get to the INS office. INS officials further told us that they were unaware of any case where a work-authorized employee was improperly terminated, denied any employment opportunity, or subjected to discrimination as a result of the EVP verification process.

The Los Angeles status verification branch is to notify the employer if secondary verification does not confirm that a noncitizen is work authorized. The notification takes place electronically and does not include the reason work authorization was not verified. According to a memorandum of understanding between the EVP employers and INS, the employer is required to instruct the affected noncitizen to contact INS to resolve his or her employment authorization status. The noncitizen can either report to the nearest INS office or phone or fax information on a toll-free number to avoid having to travel to the INS office. According to the memorandum, employees have 30 days to resolve their status; during this

time, no adverse employment action related to their immigration status can be taken.

Very few of the noncitizens who were not verified during secondary verification contacted the INS to resolve their work authorization status. Of the 8,805 noncitizens not verified, only 236, or 3 percent, contacted the INS. The INS verified 150, or about 64 percent, of the 236 as authorized to work. According to the supervisor of the Los Angeles status verification unit, there were several reasons why INS could verify 150 of the 236 noncitizens as work authorized in the third step but not in the primary or secondary verification stages. For example, although initially unauthorized to work, the noncitizen might subsequently have obtained work authorization. In other cases, the work authorization had not gotten into INS' databases yet, and the status verifier could not find the record through other methods. In a few cases, the A-number on the document INS issued the noncitizen did not match the A-number in INS' records. Several reasons were also offered for why 86 of the 236 noncitizens who contacted INS were still not verified as work authorized during the third step. According to the supervisor of the Los Angeles status verification unit, sometimes the noncitizen brought a forged document to the INS for verification. In other cases, the individual had not yet applied for work authorization.

INS officials told us they believe the reason most people do not contact INS to resolve their employment status is that they are in fact unauthorized to work. INS is planning to evaluate the EVP project. As part of the evaluation, INS plans to examine why so few noncitizens contact INS to resolve their employment status.

#### SCOPE AND METHODOLOGY

To prepare this letter, we reviewed INS' EVP procedures, observed the status verification process at one employer site and at INS, interviewed INS officials responsible for status verification, and analyzed INS' employment verification statistical data. We did not independently verify the accuracy of the employment verification data reported by INS. We conducted our work at INS headquarters in Washington, D.C., and in Los Angeles between May 1996 and January 1997 in accordance with generally accepted government auditing standards.

#### AGENCY COMMENTS AND OUR EVALUATION

We requested comments on a draft of this correspondence from the Commissioner, INS, or her designee on April 30, 1997. On May 27, 1997 we met with officials from INS' Office of Policy and Planning and from the EVP project, who generally agreed with our letter. At that meeting, these officials provided oral and written comments, which we have incorporated into the letter.

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We are sending copies of this letter to the Attorney General; the Commissioner, INS; and the Chairmen and Ranking Minority Members of the House and Senate Appropriations

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Committees, the House Government Reform and Oversight Committee, and the Senate Governmental Affairs Committee. Copies will also be made available to others upon request.

Major contributors to this correspondence were Evi Rezmovic, Assistant Director; Michael P. Dino, Evaluator-in-Charge; and Gary N. Hammond and Charity Goodman, Senior Evaluators. Please contact me on (202) 512-8777 if you or your staff have any questions about this letter.

A handwritten signature in black ink, appearing to read "Norman Rabkin". The signature is written in a cursive, flowing style.

Norman J. Rabkin  
Director, Administration  
of Justice Issues

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