



# Estimated Costs and Timeline to Implement Mandatory E-Verify

*June 10, 2016*

Fiscal Year 2016 Report to Congress



Homeland  
Security

*U.S. Citizenship and Immigration Services*

# Message from the Director

June 10, 2016

I am pleased to present the following report, “Estimated Costs and Timeline to Implement Mandatory E-Verify,” which has been prepared by United States Citizenship and Immigration Services.

This report was compiled pursuant to language set forth in Senate Report 114-68 accompanying the *Fiscal Year 2016 Department of Homeland Security Appropriations Act* (P.L. 114-113).

Pursuant to congressional requirements, this report is being provided to the following Members of Congress:



The Honorable John Carter  
Chairman, House Appropriations Subcommittee on Homeland Security

The Honorable Lucille Roybal-Allard  
Ranking Member, House Appropriations Subcommittee on Homeland Security

The Honorable John Hoeven  
Chairman, Senate Appropriations Subcommittee on Homeland Security

The Honorable Jeanne Shaheen  
Ranking Member, Senate Appropriations Subcommittee on Homeland Security

I am pleased to respond to any questions you may have. Please do not hesitate to contact me at (202) 272-1000 or the Department’s Deputy Under Secretary for Management and Chief Financial Officer, Chip Fulghum, at (202) 447-5751.

Sincerely,

A handwritten signature in black ink that reads "León Rodríguez". The signature is written in a cursive style.

León Rodríguez  
Director  
U.S. Citizenship and Immigration Services

# Executive Summary

This report responds to the Senate request to study and report on the estimated costs and timeline for making E-Verify mandatory for all employers.

Assumptions for the costs are based on expanding E-Verify under a 4-year scenario of mandated participation as described in the *Legal Workforce Act* (H.R. 1147), which was introduced in the 114<sup>th</sup> Congress.

USCIS estimates that an expansion of E-Verify to nationwide mandatory use, enacted as proposed in H.R. 1147, could result in additional costs ranging from \$95 million to \$214 million above current cost estimates for the first 4 years. Actual costs incurred from the expansion of E-Verify to a nationally mandated program will depend on many factors, including, but not limited to, the requirements of the legislation for verifying employment authorization of existing employees and the number of employers that are subject to an E-Verify mandate.



# Estimated Costs and Timeline to Implement Mandatory E-Verify

## Table of Contents

I.	Legislative Language.....	1
II.	Background.....	2
III.	Data Report: Costs of Mandatory E-Verify .....	4
IV.	Conclusion.....	9
	Appendix: Timeline of Enrollment Deadlines for H.R. 1147 .....	10

# I. Legislative Language

This document has been compiled in response to language in Senate Report 114-68 accompanying the *Fiscal Year (FY) 2016 Department of Homeland Security (DHS) Appropriations Act* (P.L. 114-113).

Senate Report 114-68 includes the following requirement:

... the Committee directs USCIS to study and report to the Committee within 45 days of the date of enactment of this act on the estimated costs and timeline for making E-Verify mandatory for employers.

## II. Background

### Background on the E-Verify Program

Congress established the Basic Pilot program, which was renamed E-Verify in 2007, as part of the *Illegal Immigration Reform and Immigrant Responsibility Act of 1996*. E-Verify is a free, Web-based system that allows employers to electronically verify the employment eligibility of their employees by checking records from DHS, the Social Security Administration (SSA), the Department of State, and state Department of Motor Vehicle divisions. E-Verify is administered by United States Citizenship and Immigration Services (USCIS) in partnership with SSA. Under federal law, employer participation in the program is voluntary except for federal agencies, the legislative branch, and employers subject to certain court orders. Federal contractors also may be required to participate in E-Verify as a condition of their federal contracts. In addition, some states have enacted legislation that requires some or all employers under their jurisdiction to participate in the E-Verify Program as a condition of business licensing or state contracting. USCIS continues to see considerable program growth as a result of state legislation and other factors, such as outreach efforts.

The number of employers participating in E-Verify has grown rapidly, from 24,000 in FY 2007 to more than 616,620 at the end of FY 2015, with an average of more than 1,300 new employers enrolling per week. In FY 2015, E-Verify processed 30.5 million queries, an eightfold increase from the 4.0 million queries processed in FY 2007. E-Verify relies on information technology (IT), including the Verification Information System (VIS), and government staff to process queries, monitor employer compliance, and process employer enrollments.

### Key Cost Drivers for Mandatory E-Verify

The cost estimates in this report are based on the *Legal Workforce Act*, H.R. 1147, introduced in the 114<sup>th</sup> Congress. It is not directly comparable to the cost estimates in *USCIS Costs of Expanding the E-Verify Program*, a report submitted to Congress on May 8, 2013, which was based on a legislative scenario that was very different from H.R. 1147. Based on several legislative scenarios that USCIS has considered over the past several years, there are a number of ways that the details of enacted legislation could greatly influence the total cost of making E-Verify mandatory.

There are three potential factors that are especially consequential in driving enactment costs. The first is whether employers are allowed or required to verify the employment authorization of existing workers. Under current law, employers are generally prohibited

from verifying workers already employed at the time that the employer enrolls in E-Verify.

The second major cost driver is the legislative enactment timeline. Generally, legislative proposals have included different deadlines for employers to participate in E-Verify based on size, with the largest employers having the earliest deadlines. Some proposals also have included different deadlines based on other factors, such as sector. The length of this “phase-in” timeline drives many workloads, especially the need for customer contact specialists that can provide information and other assistance to newly enrolled employers. Shorter phase-in timelines represent greater costs and risks to quality of service.

Finally, the costs are heavily influenced by the legislation’s requirements concerning the Nation’s smallest employers. The U.S. Census Bureau and the U.S. Small Business Administration Office of Advocacy report that roughly 60 percent of all U.S. businesses have fewer than five employees.<sup>1</sup> Some proposals have exempted these businesses from mandatory E-Verify use, while others have not. While these employers would not be expected to generate a significant volume of E-Verify cases under any circumstance, there are still many costs associated with their participation, specifically the cost to enroll the employer, provide customer service, and monitor the employer’s activity for signs of fraud or discrimination.

The workload projections and resulting cost estimates in this report are based on H.R. 1147, which includes a provision for verifying employment authorization of existing workers, requires a comparatively short enactment timeline of 3 years, and does not exempt the smallest employers (employers with fewer than five employees).<sup>2</sup> Taken together, this means that the enactment costs for H.R. 1147 have the potential to be considerably higher when compared to other legislative proposals for mandatory E-Verify.

In H.R. 1147, verification of employment authorization of existing workers is mandatory for certain government employees and contractors, but is voluntary for other employers. The voluntary aspect of this provision makes it challenging to predict the number of potential E-Verify queries; this report addresses that by running three different scenarios.

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<sup>1</sup> <http://www.census.gov/econ/susb/>

<sup>2</sup> See Appendix A for detailed summary of the *Legal Workforce Act’s* enactment timeline.

### III. Data Report: Costs of Mandatory E-Verify

To estimate the cost of implementing H.R. 1147 starting in FY 2016, USCIS first modeled the projected workload drivers—E-Verify employer enrollments, via memoranda of understanding (MOU), and the number of queries made, which are employment authorization verification requests submitted to E-Verify. The forecasted workloads are based on the parameters described in H.R. 1147, as well as U.S. Census data, U.S. Bureau of Labor Statistics data, U.S. Small Business Administration Office of Advocacy data, and historic E-Verify trends. Based on the requirements of the proposed legislation, three different scenarios were run to account for different percentages—10 percent, 40 percent, and 100 percent—of employers who may choose to verify employment authorization of their existing workers in addition to new hires. Higher percentages of employers verifying employment authorization of their existing workers will lead to a greater number of E-Verify queries, but will not affect the number of employers who enroll in the program.

The MOUs projection includes a variable for the establishment and dissolution of employers. This projection accounts for the cumulative total of MOUs being greater than the estimated number of employers in the United States.<sup>3</sup> A large spike in MOUs is seen in FY 2017 due to the 100-percent employer participation rate mandated in H.R. 1147. The resulting workload projections are in Table 1.

**Table 1.** Workload Projections for H.R. 1147

	FY 2016	FY 2017	FY 2018	FY 2019
<b><i>MOUs (New)</i></b>	111,361	5,618,269	87,490	70,298
<b><i>MOUs (Cumulative)</i></b>	731,361	6,349,630	6,437,121	6,507,418
<b><i>Queries for Scenario 1 (new hires + 10% of employers verify existing workers)</i></b>	34,646,376	49,639,248	63,191,613	61,622,769
<b><i>Queries for Scenario 2 (new hires + 40% of employers verify existing workers)</i></b>	45,585,504	68,248,632	68,386,208	61,663,843
<b><i>Queries for Scenario 3 (new hires + 100% of employers verify existing workers)</i></b>	67,463,760	105,467,400	78,775,399	61,745,992

For comparison, in FY 2015, E-Verify processed 30,538,992 cases and enrolled 72,031 employers.

<sup>3</sup> The U.S. Small Business Administration Office of Advocacy reports that there were 5.68 million employers in the United States in 2011. More than 3.5 million of these employers had fewer than 5 employees. (<https://www.sba.gov/advocacy/firm-size-data>)

## **Estimating Costs**

The USCIS Verification Modernization lifecycle cost model is designed to estimate the “cradle to grave” costs related to VIS, its supporting applications, and the government staff required by the USCIS Immigration and Employment Status Verification program, which includes E-Verify as well as Systematic Alien Verification for Entitlements (SAVE). DHS uses this model to project costs for the Verification Modernization investment business case under current law, and the DHS Chief Financial Officer approved this cost model in September 2015.<sup>4</sup> USCIS includes both E-Verify and SAVE in its overall Immigration and Employment Status Verification program cost model due to the similarity of the programs and the sharing of technology, personnel, and other resources that support both. USCIS carefully analyzes and delineates which costs solely benefit E-Verify, those that solely benefit SAVE, and those that are shared and must be allocated to E-Verify and SAVE based on a reasonable and consistent allocation methodology, e.g., query volume. This is important because E-Verify is funded by discretionary appropriations, while SAVE is funded through the Immigration Examinations Fee Account from SAVE customer reimbursements and general immigration benefit application and petition fee collections. Following Department guidance and best practices,<sup>5</sup> the model produces a range of risk-adjusted estimates to account for uncertainty.

USCIS modified the existing (baseline) Verification Modernization cost model to estimate the cost of implementing H.R. 1147. The workload projections in Table 1 served as inputs to the cost estimating model. The major cost drivers identified for enacting H.R. 1147 are staffing, facilities and support, and third-party costs. Although not a major cost driver, this analysis does include IT and licensing costs that would be associated with an identity authentication employment eligibility verification pilot as outlined in section 13 of H.R. 1147. The cost estimates are provided in Table 2.

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<sup>4</sup> DHS approved an update (dated February 29, 2016) to the Verification Modernization Life Cycle Cost Estimate (LCCE) on March 18, 2016. The cost modelling and analysis for this report was based on the most current approved LCCE version available at the time and was complete before the February 29, 2016 LCCE was finalized. USCIS does not believe that updating the modelling using the February 29, 2016 version of the LCCE would result in a materially more precise cost estimate of implementing H.R. 1147, and doing so would introduce further delays in delivering this report to Congress.

<sup>5</sup> U.S. Government Accountability Office, “GAO Cost Estimating and Assessment Guide: Best Practices for Developing and Managing Capital Program Costs,” GAO-09-3SP, March 2009.

**Table 2.** Estimated Costs at 50-Percent Confidence Level for Implementing H.R. 1147

Cost Estimates (\$ in thousands) <sup>6</sup>		FY 2016	FY 2017	FY 2018	FY 2019	4-Year Total Cost Estimate	Difference Between Scenario & Baseline Total Estimates
<b>Baseline</b>	E-Verify	\$133,853	\$141,355	\$137,037	\$136,593	\$548,838	
	SAVE	\$53,601	\$56,165	\$56,740	\$57,094	\$223,600	
	Baseline Total	\$187,454	\$197,520	\$193,777	\$193,687	\$772,438	N/A
<b>Scenario 1 (new hires + 10% of employers verifying existing workers)</b>		\$190,785	\$248,188	\$216,699	\$212,096	\$867,768	\$95,330
<b>Scenario 2 (new hires + 40% of employers verifying existing workers)</b>		\$202,604	\$273,561	\$220,544	\$212,039	\$908,748	\$136,310
<b>Scenario 3 (new hires + 100% of employers verifying existing workers)</b>		\$223,317	\$324,198	\$228,650	\$210,069	\$986,234	\$213,796
<b>Current Budget</b>		<b>FY 2016 Estimate</b>	<b>FY 2017 Estimate</b>				
<b>E-Verify</b>		\$119,671	\$119,139				
<b>SAVE (Fees)</b>		\$35,554 <sup>7</sup>	\$37,071				
<b>Total</b>		\$155,225	\$156,210				

The cost estimates presented are at the 50-percent confidence level<sup>8</sup>, meaning that the actual costs are equally likely to be greater or lower. Because only variables related to E-Verify were changed in the cost estimating model, the difference between the baseline 4-year implementation cost estimate and the implementation estimates for each scenario indicates the range of additional costs that can be expected as a result of implementing H.R. 1147. None of the assumptions related to SAVE were changed from the baseline. For this reason, all of the increased costs from the baseline scenario to the H.R. 1147 scenarios should be funded with discretionary appropriations because they are

<sup>6</sup> Cost estimates are from the July 2014 Verification Life Cycle Cost Estimating Model approved at an interim level by the DHS Chief Financial Officer in September 2015. The estimates are developed for the entire Verification program and include SAVE; the breakout between the two programs has been shown.

<sup>7</sup> The FY 2016 SAVE budget includes \$8.53M in additional fee resources for Verification Modernization above the level included in the Joint Explanatory Statement accompanying the Department of Homeland Security Appropriations Act, 2016 (Division F of P.L. 114-113). USCIS will notify Congress of this increase in accordance with Section 503 of the Act.

<sup>8</sup> According to the GAO Cost Estimating and Assessment Guide from March 2009, “While no specific confidence level is considered a best practice, experts agree that program cost estimates should be budgeted to at least the 50 percent confidence level...”

attributable to E-Verify, and none of the costs should be allocated to the Immigration Examinations fee account since they are unrelated to SAVE.

The cost model is purely a cost-estimating tool that incorporates risk adjustment, and it cannot be directly compared to agency budget formulation estimates. Because of this, the cost model baseline estimates are greater than the budget figures that Congress is familiar with from USCIS's Congressional Budget Justifications and other budget documents and briefings. This is why the cost estimation model baseline scenario (current law) shows \$141.355 million for E-Verify in FY 2017 rather than the President's Budget request of \$119.139 million. To bridge the gap between the cost model estimate and the actual budget, USCIS manages risks, makes tradeoffs, experiences lower inflation and employee fringe benefit factors than assumed by the cost model, and avoids higher costs by negotiating advantageous contract pricing. It is important to note, however, that while USCIS can manage these strategies in the short term to deal with budget realities, the longer time horizon and more unknown factors associated with implementing changes to the existing law as contemplated by H.R. 1147 mean that the risk adjustment will be necessary and prudence in the cost estimate will be required.

### **Staffing Costs**

E-Verify relies on government staff to manage and support the program and process employment authorization verification queries and employer enrollments. In FY 2015, 1.2 percent of E-Verify queries did not pass initial electronic verification resulting in 256,404 cases requiring manual processing. In a mandatory E-Verify environment, the percentage of cases requiring manual review is expected to stay the same but will precipitate an increase in staffing. To accommodate the projected increase in workloads assumed for H.R. 1147 in FY 2016, additional staff would be needed to perform the following tasks:

- Process manual employment authorization verifications after an initial electronic check is unsuccessful;
- Conduct education and training campaigns to inform employers how to sign up for E-Verify and use the system properly;
- Respond to questions and provide assistance to prospective and current E-Verify users;
- Conduct compliance assistance to include monitoring and compliance activities to detect and respond to misuse of E-Verify; and
- Provide mission support functions, such as IT, legal, policy, human resources, and training.

### **Facilities and Support Costs**

In addition to increased salary costs, the expansion of E-Verify may require USCIS to acquire additional office space and additional equipment to accommodate and support the

increased staffing. These costs might be mitigated through the use of alternatives such as term employees and remote hires.

Furthermore, certain technology support costs associated with increased E-Verify workloads must be considered. An example is licenses for the Data Analytics Tool (DAT). E-Verify has developed DAT to manage, analyze, and continuously improve the processes involved in resolving tens of millions of cases each year. The licensing fees for the software used are based directly on the number of cases; thus, as workload volumes increase, so will license costs for this tool.

### **Third-Party Costs**

SSA processes most E-Verify cases involving contested claims to U.S. citizenship. Each year, USCIS reimburses SSA under an interagency reimbursable work authorization for the cost of resolving contested SSA mismatches, and for the operations and maintenance of EV-STAR, an isolated environment between the USCIS VIS and SSA used to share case data. Thus, as query volumes increase, so will the expected number of cases requiring USCIS to reimburse SSA to resolve mismatches, as well as the costs to operate and maintain EV-STAR.

## IV. Conclusion

USCIS estimates that an expansion of E-Verify to nationwide mandatory use, enacted as proposed in H.R. 1147, could result in additional costs ranging from \$95 million to \$214 million above current cost estimates for the first 4 years. Actual costs incurred from the expansion of E-Verify to a nationally mandated program will depend on many factors, including, but not limited to, the requirements of the legislation for verifying employment authorization of existing employees and the number of employers that are subject to an E-Verify mandate.

## Appendix: Timeline of Enrollment Deadlines for H.R. 1147

	<i>Employer Group</i>	<i>Enrollment Deadline (from date of enactment)</i>
Non-Ag	10,000+ employees	6 months
	500-10,000 employees	12 months
	20-500 employees	18 months
	1-20 employees	24 months
	Agriculture businesses	36 months