



E-Verify is Smart Business: Debunking the Cost of Employment Verification

By Spencer Raley | June 2018

Americans lose out on millions of job opportunities every year because companies seeking cheap labor choose to fill positions with illegal aliens. Since most illegal aliens come to the United States from impoverished countries with failing economies, the vast majority are willing to work for any remuneration they consider reasonable, even though the wage offered may be significantly below the market rate. Unscrupulous employers regularly exploit illegal alien laborers in order to cut their costs and increase their profits.

Prior to the Trump Administration, U.S. Immigration and Customs Enforcement (ICE) and the U.S. Department of Labor rarely conducted worksite enforcement operations. As a result, more and more employers, particularly in the construction and service industries, began recruiting illegal alien workers. The risk was minimal and very few companies were prosecuted for violating federal immigration law.

FAIR estimates that as many as 7,000,000 illegal aliens participate in the U.S. economy, and that at least 35 percent of those operate in the “underground economy” – that is, they work “under the table.” These individuals are not authorized to accept employment in the United States and their employers do not comply with applicable immigration, safety, wage and hour, and tax laws.¹ In most cases, the employer and the illegal alien willfully collaborate to violate immigration laws. In others, employers rely on weak employment verification requirements and voluntarily turn a blind eye to questionable identity and immigration documents.

For two decades, the United States has had a simple, effective tool that would virtually eliminate the employment of illegal aliens, if only businesses were required to use it. E-Verify was created in 1997 to provide business owners with a fast and easy way to ensure that they are compliant with federal immigration law.² However, its use is not mandated by the federal government, and only a few states require employers to use E-Verify. Mandating the use of this centralized work authorization database would likely eliminate the bulk of unlawful employment in the United

States. It would also protect employers from inadvertently hiring illegal aliens and ensure that job opportunities go to those who are lawfully permitted to work in this country.

But would such a move punish those who follow the law by requiring them to use a cumbersome program that inflates the cost of hiring, like some critics suggest? To figure this out, FAIR estimated what it actually costs employers to run an employee through E-Verify. We then compared those costs to the potential fines faced by an employer who hires an illegal alien.

Methodology

To conduct this study, we primarily considered two contrasting costs:

1. The costs associated with having a human resource officer input applicant information into the online E-Verify system. This included identifying the average salary of HR associates and generalists, based on current salary rates in several major cities, then calculating a per minute wage. This allowed us to compute a per-applicant cost based on how long it takes to complete the E-Verify process.
2. The cost of fines that the federal government could levy on a company or contractor for illegally hiring an individual who is not permitted to work in the United States.

We then compared the cost of using E-Verify, as represented by the per minute wage of the employees responsible for running a potential employee through the system, with the potential costs of not using E-Verify, as represented by the fines that employers who hire illegal aliens can face.

For the purposes of this study, we examine only the costs of putting an employee through the E-Verify system. Many employers hire illegal aliens because they will work for below-market wages. This study is designed to estimate the potential costs and savings for those who desire to follow the law. It presumes that an effective enforcement scheme makes it more costly to violate the law than it would be to simply use the E-Verify system. There is no fee for using E-Verify and an E-Verify determination that an applicant is eligible to accept employment in the United States insulates an employer from prosecution if that applicant is later found out to be seeking employment without authorization.

Criticisms of the E-Verify System Not Supported by Evidence

One concern often brought up by those who oppose the use of E-verify, is the potential for system error. Some individuals, when run through E-Verify, will trigger a Tentative Non-Confirmation (TNC) or Final Non-Confirmation (FNC) notice. A non-confirmation is determination that a particular applicant cannot be verified as eligible to work in the United States.

- A TNC results when the information submitted in E-Verify does not initially match the information in the SSA, DHS or DOS records. A TNC does not mean that the employee is not authorized to work in the United States. It merely indicates that, if the employee believes he/she is authorized to work in the U.S., he must contest the TNC finding by furnishing documentation demonstrating work eligibility.
- A FNC results when an individual receives a TNC and either fails to contest it, or when an individual has attempted to contest the TNC and the Social Security Administration and the Department of Homeland Security cannot verify that an applicant is authorized to work in the United States.

Fears that legal workers will erroneously be reported as ineligible are unfounded, as only 0.3 percent of applicants are inaccurately flagged as TNC.³ Since this number is so low, and since a secondary submission of paperwork resolved 94 percent of the 0.3 percent of cases inappropriately flagged as TNC, the alleged cost and inconvenience associated with E-Verify errors are too low to be relevant, or to even be reasonably calculated.

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SUMMARY OF FINDINGS

Running an employee through the E-Verify system is simple. The process requires employers to enter information provided by applicants on the federal “Employment Eligibility Verification” form, known colloquially as the “I-9.” (By law, all employees must complete Form I-9 and employers are required to retain a copy of this document.) This information is entered into the E-Verify system via the free online portal provided by the federal government. The program will then validate applicant details by running them against millions of government records. The system typically provides a result within five seconds.⁴ The result will either say “employment authorized,” or “DHS/SSA Tentative Nonconfirmation (TNC).”

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If an employee receives a TNC, he/she can contest the result with the Social Security Administration (SSA) or contact the Department of Homeland Security within 8 federal working days.⁵ Employers who use the system according to the applicable rules are protected from civil and criminal penalties regarding the hiring of illegal aliens.⁶ In addition, employees may not sue an employer who rescinds an employment offer based on an E-Verify determination that an individual is not authorized to work in the United States.⁷

The primary costs that E-Verify imposes upon businesses are those associated with actually inputting new employee information into the system. Based on FAIR testing, it typically takes between 2 and 5 minutes to complete this process.

Since using the E-Verify system itself is free, and there is no risk of legal recourse for using it properly, the personnel costs associated with data-entry would be the only burden to businesses. FAIR examined the salaries of human resource associates and generalists from 7 major metro areas, and found the median salaries to be about \$51,000 for associates, and \$55,000 for generalists.⁸ Using \$53,000 as a base, it costs an HR department approximately \$2.10 to run an employee through E-Verify, if the process takes 5 minutes.

As can be seen, the cost of running an employee through the E-Verify system is miniscule. It's a veritable bargain when compared to the fines employers potentially face for hiring someone not authorized to work in the United States.

According to ICE, the “Knowing Hire / Continuing to Employ Fine Schedule” begins at \$548 for a first offense, so long as less than 10 percent of a company's employees were unlawfully hired. That fine goes up to \$3,726 if more than 50 percent of employees were illegally hired. Second offenses range from \$4,384 to \$10,026, and third or subsequent offenses can be as high as \$19,242.⁹

This means that a company could run approximately 260 employees through the E-Verify system for the cost of a first-offense fine relating to a single unlawful hire, or nearly 5,500 employees for what three fines would cost.

There are also a host of other federal, state and local labor, wage/hour, workplace safety and tax laws that employers may violate by hiring and continuing to employ illegal aliens. Depending on the jurisdiction, an employer may incur significant civil and criminal penalties even in circumstances where it unknowingly hires an illegal alien. The use of E-Verify also insulates employers from these potential expenses.

Based on cost, convenience and reduction of potential liability, the only reason for an employer to prefer the paper I-9 employment verification process over the electronic E-Verify system would appear to be a willful desire to turn a blind eye to potentially fraudulent identity and work-authorization documents.

Conclusion

With 7.8 percent of the U.S. workforce currently unemployed or underemployed, those who are lawfully permitted to work in this country deserve every opportunity to find jobs without competing against illegal aliens willing to work for sub-standard wages.¹⁰ E-Verify is an excellent way for American businesses to protect the labor market from artificial wage depression and ensure a level playing-field among companies competing in the same markets.

As the findings in this report show, E-Verify usage does not impose a significant financial burden (or, for that matter, a significant time burden) on businesses. On the contrary, it is a minimal investment that insulates employers from significant fines, potential debarment from government contracts and, in some instances, criminal liability.

Furthermore, mandating the use of E-Verify by all employers in the United States would provide the federal government with the means to systematically conduct effective worksite enforcement operations – protecting American workers from unfair competition and illegal alien laborers from unscrupulous exploitation.

¹ Matt O'Brien and Spencer Raley, "The Fiscal Burden of Illegal Immigration on United States Taxpayers," Federation for American Immigration Reform, September 27, 2017, <https://fairus.org/issue/publications-resources/fiscal-burden-illegal-immigration-united-states-taxpayers>.

² U.S. Department of Homeland Security, Citizenship and Immigration Services, "E-Verify: History and Milestones," Accessed May 2018, https://www.uscis.gov/sites/default/files/USCIS/Verification/E-Verify/HistoryMilestones/E-Verify_History_and_Milestones.pdf.

³ U.S. Department of Homeland Security, Citizenship and Immigration Services, "Summary of the Evaluation of the Accuracy of E-Verify Findings," Accessed May 2018, https://www.uscis.gov/sites/default/files/USCIS/Verification/E-Verify/E-Verify_Native_Documents/EVerify%20Studies/E-Verify%20Accuracy%20Report%20Summary.pdf.

⁴ U.S. Department of Homeland Security, Citizenship and Immigration Services, "E-Verify OVERVIEW," Accessed May 2018, <https://www.e-verify.gov/employees/e-verify-overview>.

⁵ U.S. Department of Homeland Security, Citizenship and Immigration Services, “EMPLOYEE RIGHTS AND RESPONSIBILITIES,” Accessed May 2018, <https://www.e-verify.gov/employees/employee-rights-and-responsibilities>.

⁶ U.S. Department of Homeland Security, Citizenship and Immigration Services, “E-Verify User Manual for Employers,” Accessed May 31, 2018, https://www.uscis.gov/sites/default/files/files/natedocuments/E-Verify_Manual.pdf

⁷ Ibid.

⁸ “Human Resource Salaries in the United States,” Indeed, Accessed May 2018, <https://www.indeed.com/salaries/Human-Resource-Salaries>.

⁹ U.S. Department of Homeland Security, Immigration and Customs Enforcement, “Form I-9 Inspection Overview,” Accessed May 2018, <https://www.ice.gov/factsheets/i9-inspection#fineSchedule>.

¹⁰ U.S. Department of Labor, Bureau of Labor Statistics, “Table A-15. Alternative measures of labor underutilization,” May 4, 2018, <https://www.bls.gov/news.release/empst.t15.htm>.