

Insights: Pros and Cons of Registering for E-Verify

Jackson Lewis

Article By

[Amy L. Peck](#)

[Maggie Murphy](#)

[Jackson Lewis P.C.](#)

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Immigration enforcement is a major focus of attention of the Trump Administration – including in the business immigration context. One measure of this interest is the increase in I-9 audits. [ICE reported](#) that worksite investigations surged in FY 2018 by “300 to 750 percent” over FY 2017. Given that, many employers are considering whether to register for E-Verify.

E-Verify is the federal web-based system that allows enrolled employers to confirm the eligibility of their employees to work in the United States based upon the presented documentation. The employer must still complete Form I-9s for each employee, even if E-verify is utilized.

Whether registering for E-Verify is right for your company will depend upon a number of factors. Below are some of the “pros and cons” to consider.

Pros

1. Some state and federal government contractors are required to use E-Verify. The E-Verify requirement is specified in the contract. Although E-Verify is currently voluntary for most employers, some states require its use and the federal government may make it mandatory for some companies.
2. Registered companies can offer eligible foreign student-employees in F-1 visa status an additional 24 months of optional practical training. This can be useful in recruitment and retention because it allows a company to continue to employ

F-1 STEM students who do not “win” the H-1B lottery. It also allows a company to employ certain STEM students for up to 36 months without petitioning for an H-1B.

3. Using E-Verify may help companies avoid receiving Social Security “No-Match” letters.
4. After the initial weeks on E-Verify and the TNC process, employers generally report that it is not difficult and that results are immediate.

Cons

1. Signing up for E-Verify allows the SSA and DHS to audit your data. E-Verify’s Monitoring and Compliance unit reviews the data every 30 days to determine if normal statistical parameters are met. If E-Verify spots issues, it will notify the appropriate government agency that an audit should be conducted. SSA, ICE, USCIS, and the IER all have MOUs (Memoranda of Understanding) with E-Verify that allows data to be shared, which leads to audits by these agencies.
2. ICE has confirmed that E-Verify has no bearing in an I-9 audit and will not impact the outcome of an audit. In other words, the use of E-Verify by a company will not decrease the chance of an I-9 audit fine.
3. More than one staff member in the company will have to be trained to use E-Verify and they must keep up-to-date on changes. This may be costly and time-consuming.
4. E-Verify may generate erroneous non-confirmations of work authorization.
5. The E-Verify system has had maintenance issues, and is periodically off-line, therefore timeliness of submissions may be affected.
6. E-Verify is not available when the U.S. government is “shut down.” After the database is opened for use again, there is often a very short period during which users can submit data for employees hired during the shut-down, which can tax company resources.

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