

SOCIAL SECURITY ADMINISTRATION AND DHS AILA LIAISON MEETING ON SSA-RELATED ISSUES

April 23, 2007 10:00am

DRAFT MINUTES FROM THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION

In attendance for AILA: Denise C. Hammond - Chair, Ann Allott, Marketa Lindt, Craig Miley, Grant Sovern, Larry Katzman

In attendance for SSA: Linda Baer (SSA/OISP/OEEP/SPA), Karen Palm (SSA/OISP/OEEP), Darrell Blevins (SSA/OISP/OEEP), Sam Foster (SSA/OISP/OEIE), Kim Baldwin Sparks (SSA/OISP/OEEP), Nancy Grace (SSA/OISP/OEEP/ET), Chuck Liptz (SSA/DCBFM/EWRRS), Terri Banack (SSA/OISP/OEEP/SPA), Deirdre S. Battle (SSA/OISP/OEEP/SPA), Kelly Kietzke (SSA/OPSOS/DSSPI), Elizabeth Teachey (SSA/OISP/OEEP/EET), Gina Bauer (SSA/OISP/ERRT), La'Tonya Martin (SSA/OISP/ERRT), Art LaVeck (SSA/OISP/OEEP/ET), Mary Gibson (SSA/OISP/OEEP/EET)

In attendance for USCIS: Lisa Roney (USCIS Policy), Gerri Ratliff (USCIS Verification), Sara Speckhard (USCIS Policy), Wayne Bauer (USCIS Verification), Elizabeth Brown (USCIS Verification), Donna Scales (USCIS Verification), David H. Bounds (USCIS/Verification)

The Enumeration Process

1. Developments in the Process. Please describe SSA's current process for issuing Social Security Numbers (SSNs) to noncitizens, including acceptable documents, verification methods, timeframes, documents generated in the process, and procedures. Please highlight any changes since our meeting in May 2006.

- Is SSA still recommending allowing 10 days from physical admission, change of status, or EAD issuance before applying for an SSN? Last year SSA explained that EAD issuance information became available in SAVE within 24 hours but that CBP was still doing some manual entry of nonimmigrant information for those who are allowed to work incident to status. SSA also mentioned meeting with CBP and ICE on this issue. Did that meeting take place? Did SSA learn anything more about CBP input of information to change the 10-day waiting period before applying for an SSN?
- How long should it take to issue the SSN card after verification?
- Explain the process when an applicant applies prematurely and SSA can't verify status through SAVE (Systematic Alien Verification for Entitlements). Does SSA keep querying SAVE? At what point does it send the G-845 request for secondary verification to USCIS?

- We understand that the web-based G-845 process took effect in January 2007, but that there were kinks in the new system. We understand that SSA and SAVE staff were working them out. What were they and are they now resolved?
- Describe how the web-based process works from the point at which the local SSA office sends the request to the point of DHS response. How does DHS verify this information and how long should it take? Is it through ICE or CBP?
- When are paper G-845s still used?
- Does SSA still expect to issue the SSN card within 10-14 days from verification?

Answer. *The application procedures for an SSN are basically the same as last year but the processing software and procedures have changed. Applicants submit Form SS-5 and present documents proving age, identity and immigration status showing employment eligibility at a local SSA office. As in the past, SSA must examine the immigration documents and verify status in SAVE. (SAVE stands for "Systematic Alien Verification for Entitlements." The SAVE Program is responsible for administering programs involving "customer" access to information contained in the Verification Information System (VIS) database. This database is a nationally accessible database of selected immigration status information on over 60 million records. It gives Federal, state, and local government agencies and licensing bureaus access to immigration status information in order to determine eligibility for many public benefits. The Program also administers employment verification pilot programs that enable employers to verify the work authorization of their newly hired employees).*

Previously, if the status information did not exist in SAVE or it was discrepant from the document submitted, the SSA field office had to mail a paper Form G-845 to DHS requesting secondary verification. Responses from DHS were sometimes spotty. SSA now has web-based access to USCIS's SAVE system, which is integrated with a new automated "SS-5 Assistant" tool. With the SS-5 Assistant, the field office now has an automated interface with the group at CIS responsible for administering SAVE and some of its constituent databases. Now, if the field office cannot verify status through SAVE, the SS-5 Assistant sends an automatic inquiry to CIS, which is called an Electronic Additional Verification (EAV). The EAV goes to a member of CIS' SAVE team that reviews other databases and information that may not be available through SAVE. If employment eligible status can be verified, CIS responds electronically to the SSA field office within 15 days but usually much sooner. The SSN card is usually sent within two weeks of receiving the status verification.

If CIS cannot verify status by reviewing electronic information in its databases, it asks SSA to send a paper G-845 and copies of status documents taken at the time the application was submitted. These include cases where SAVE does not show an A#, cases of expected fraud, or cases when the EAV response is "resubmit."

These enhancements have resulted in a decrease in the number of erroneous denials. Still, CIS and SSA continue to recommend waiting at least 10 days after arrival to the U.S. or obtaining a change in status before applying for the SSN. The Government believes this new system will result in significantly fewer delays in status verification and may someday lead to a shorter waiting period before applying for the SSN.

In cases when an applicant applies for the SSN sooner than ten days before being admitted or receiving a change of status or other benefit (i.e., EAD), SSA will attempt to verify through SAVE and, failing that, will hold case for 10 days after arrival in the U.S.. The SSA field office will attempt to send the initial verification again after the ten days has passed in hopes that the status information has made it into SAVE. If still cannot verify status, then request an EAV.

CIS and CBP have made some of this new electronic system possible by implementing an electronic system that makes certain real-time arrival information available in VIS. CBP officers at ports of entry are now directly keying in status information at the moment an I-94 is completed. Also, extensions and changes of status are uploaded the day after approval. This information is passed through CBP's TECS system into SAVE (although it is not in place yet for Basic Pilot). Previously, the only source of this information was the Kentucky facility that input I-94 information up to ten days (or longer) after admission. The Kentucky facility is still entering information as a back-up and for additional information like I-94 numbers since TECS does not capture all data points. Other databases run by CIS (such as CLAIMS, C3, and ISRS) are also downloading closer to real-time information through the Service Centers.

CIS is examining why certain classes of admissions have a higher incidence of delay or incorrect status information, which requires follow-up, e.g., B-2s with adjustments pending. CIS has agreed to meet with the AILA/SSA Liaison Committee to examine ways to improve this process and urges AILA to be an involved stakeholder in SAVE developments.

SSN Cards are usually issued within two weeks of verification.

2. Documentation Standards. Please explain any changes in enumeration protocols since May 2006 due to REAL ID, IRTPA or otherwise in the documents required to establish eligibility for a social security card.

- What documents will SSA accept to establish an applicant's identity?
What if the document is expired?

Answer. *For a complete discussion of the identity and status documents required to obtain an SSN Card, see [RM 00203.001 Evidence Required for an SSN Card](https://s044a90.ssa.gov/apps10/poms.nsf/partlist!OpenView) (RM stands for "Records Management") which can be found in SSA's Program Operations Manual System. The POMS Table of Contents is at <https://s044a90.ssa.gov/apps10/poms.nsf/partlist!OpenView>. The Table of Contents to RM 002, "The Social Security Number, Policy and General Procedures " is at <https://s044a90.ssa.gov/apps10/poms.nsf/subchapterlist!openview&restricttocategory=0>*

1002. RM 00203.001, "Evidence Required for an SSN Card" (at <https://s044a90.ssa.gov/apps10/poms.nsf/lnx/0100203001!opendocument>) references the following:

- [RM 00203.020](#), Number of documents required
- [RM 00203.100](#) and [RM 00203.110](#), Evidence to establish age
- [RM 00203.200](#) and [RM 00203.210](#), Evidence to establish identity
- [RM 00203.200](#), Evidence of identity for applicant applying on behalf of another individual
- [RM 00202.005](#), Proper applicant
- [RM 00203.300](#) and [RM 00203.310](#), Evidence to establish U.S. citizenship
- [RM 00203.400](#) through [RM 00203.510](#), Evidence to establish lawful alien status
- [RM 00203.560](#), Alien is not lawfully present in the U.S.
- [RM 00203.510](#), Evidence of a valid nonwork need for an SSN
- [RM 00206.035](#), Applicant is outside the U.S.
- [RM 00206.040](#), Applications for children in adoption cases
- RM 00203.720, Procedures for examining immigration documents

See also SSA Policy Instruction EM-06064, (Oct. 2, 2006) for policy on acceptable name change based on change in marital status. This Instruction is attached at Exh. A hereto

<https://s044a90.ssa.gov/apps10/public/reference.nsf/1bb8ac5165f7ca5d85256c230074491b/15147a1699190ed4852571f7004b1127!OpenDocument> .

3. Naming Conventions and Length. Please explain any developments regarding naming conventions and character length in the enumeration or verification process. What is SSA's policy? (We understand that the SSN computer application process allows for the following number of characters: 16 (first name), 16 (middle) and 21 (last name) positions (= 53 total) and that the last name can be stretched to 26 characters to be printed on the card, if needed, in certain circumstances).

- How do these compare with naming conventions of ICE, CBP and USCIS? What is the status of any discussions with these agencies? With DOS?
- Does SSA still recommend that the name on the U.S. immigration document and foreign passport be used as the person's legal name on all business with local governments, driver's licenses, etc.?

Answer. *The SSN computer application process allows for the following number of characters: 16 (first name), 16 (middle) and 21 (last name) positions (= 53 total) and that the last name can be stretched to 26 characters to be printed on the card, if needed, in certain circumstances.*

The government is going through a serious reexamination of its data matching due to Real ID and the possible implementation of an EEV (Employment Eligibility

Verification) system. As a result, SSA is being much more careful about the name it uses to issue an SSN. Basically, it suggests that applicants use the name presented to DHS to obtain the immigration status as shown on the immigration document, not necessarily the name that appears on the passport. It will be very important for foreign nationals and all citizens to be consistent in the form of their name used now that many areas of the Government will use the name to match databases.

CIS has agreed to provide guidance on naming protocols.

USCIS Status Verification System

4. SAVE System. We again wish to express our gratitude for USCIS's efforts to address verification-related delays and to make the SAVE system more reliable. Please explain the current system.

- What is the procedure for entering USCIS approval of a change or extension of status? What components are entered in "real time" and what components are not? Who enters each data component? Who maintains each data component?

SAVE receives nightly downloads from CIS (from USCIS); TECS (from CBP); from ISRS (from USCIS) and CLAIMS 3. It is working on a SEVIS download from ICE. Each Service Center has a CLAIMS 3 LAN that gets uploaded to the CLAIMS 3 mainframe daily. CBP data goes into the system from the inspector's document swipe and keying in of class of admission. The information is downloaded nightly from the local networks to the mainframe, and the following night from the mainframe to SAVE, so it takes about 48 hours to get into the SAVE system. However, the CBP download does not include all information, e.g., does not include I-94 number. Therefore, I-94s are still sent to Kentucky for entry of additional fields. Canadians present additional difficulties because they are visa-exempt and often do not have I-94s. SSA similarly has problems verifying status of Marshall Islanders and Micronesians.

- Who is in charge of maintaining the SAVE system and where does that entity/person fit in the DHS structure?

CIS has three Directorates: Domestic Operations (Mike Aytes), International Operations (Laurie Sciabba), and National Security Records Verification (NSRV) (Steve Bucher). NSRV includes SAVE (Geri Ratliff), Fraud Detection and National Security and Records. Electronic Employment Verification (EEV), which in turn includes SAVE, Policy, Employer Compliance, Business Process, Employer Monitoring and Education. In anticipation of the growth of Basic Pilot, the NSRV is growing rapidly and recently increased its staff from 13 to 50.

- Explain any consideration given to incorporating US VISIT data in the SAVE database that is queried by SSA.¹

¹ For your convenience, we include the following summary from last year's minutes. While this is highly technical, our primary interest is in understanding the reason for delays in SAVE's ability to verify status, which imposes undue hardship on our clients, where the system breaks down, and what we can do to

CIS is looking at this.

5. Correcting SAVE Errors in CBP/ICE/USCIS Data. When SSA informs an alien that DHS has not verified status and the verification delay relates to an error in DHS records, we need a way to correct DHS records.

- Please explain current efforts and discussions with CBP and ICE to provide for amendment and correction of records that SSA uses for SAVE queries? Which records can USCIS, CBP or ICE correct? Can this be done at the local district offices? How? Can USCIS coordinate such correction through its SAVE offices? Which records can USCIS correct?
- Until CBP or ICE agrees to establish a mechanism to accept AILA member requests for a correction, can USCIS accept and coordinate a request for correction?
- Our members continue to report that CBP is unwilling to correct mistakes on I-94s at ports of entry on the ground that CBP no longer “owns” the data. What is the status of USCIS – CBP discussions on measures to correct errors on I-94s and what can we do in this situation?

Answer. *This needs to be escalated to the DHS level. USCIS’s SAVE Verification division has approached CBP about establishing an avenue for correcting errors. AILA should continue to liaise with SAVE officials about this avenue since it is an EEV (employment eligibility verification issue) and, therefore, should take priority at DHS. SAVE, through Ms. Ratliff, has agreed to continue to liaise with AILA to achieve correction of CBP errors on I-94s and other entry documents.*

facilitate corrections. The summary is as follows: The SAVE Program and its database (the Verification Information System or VIS) are under USCIS and the SAVE database receives nightly downloads of all new and updated immigrant records from the Central Index System, a USCIS-owned system. The Central Index System contains records from the USCIS Computer Links Application Information Management System (CLAIMS), which contains I-797 Approval Notice information. VIS contains records from the USIS Image Storage and Retrieval System (ISRS) data, which contains records of employment authorization documents (EAD cards) and Alien Registration cards. VIS also receives nightly downloads of CBP non-immigrant records from the Interagency Border Inspection System (IBIS), formerly the Treasury Enforcement Communications System (TECS). However, currently the only information from IBIS/TECS available to SAVE is data from handwritten I-94’s that are input by contractors at London, Kentucky. SAVE personnel are looking at having a direct upload of CLAIMS data instead of accessing the data through the Central Index System. In addition, they are looking at getting a direct upload of Student and Exchange Visitor Information System (SEVIS) data. SAVE personnel are also working with CBP personnel to obtain additional access to IBIS/TECS data showing secondary inspection of non-immigrants and their classification and date of admission. SAVE personnel have been exploring access to the US-VISIT Arrival and Departure Information System (ADIS). However, IBIS/TECS updates ADIS, so access to that information might be duplicative.

6. SAVE Data Privacy Protections. Please explain efforts to protect the privacy and integrity of SAVE data in light of expansive uses of the system as required by REAL ID.

Answer. SSA has completed an extensive Privacy Impact Assessment under the E-Government Act of 2002 (PL 107-347, 44 U.S.C. Ch 36). The assessment is available on their web site at <http://www.ssa.gov/foia/html/pia.htm>

7. Nonverification of New Status Classifications. Last year, we discussed verification problems with verification of new status classifications (example, "H-1B1" for Singaporeans) and A-numbers where the alien has a USCIS-issued receipt assigning an A# but DHS records show the A-number has been issued to another individual. It was thought that improvements in the SAVE database were supposed to give affected applicants a way to correct database errors either with USCIS, CBP or ICE. Please explain any developments in this regard.

Answer. SSA and CIS believe that the new web-based and automated procedures discussed above have improved the application process and will continue to do so. AILA members should continue to use the Liaison inquiry system (on InfoNet under Individual Case Assistance) and AILA should alert SSA and CIS to problem trends.

Special Verification Situations

8. Asylees and Refugees. What is the current process for verifying the status of asylees and refugees? Last year, we were advised that asylee and refugee status are verified through the DOJ's Executive Office of Immigration Review (EOIR) and the Department of State, Worldwide Refugee Admissions Processing System (WRAPS). Have there been any changes in protocol or procedure and is there anything we should report to our members to facilitate enumeration?

Answer. There have not really been any changes in protocol or procedure. SSA verify's Asylees and Refugees primarily through SAVE and the Asylum Office. CIS has agreed to provide a table/overview of cases likely to go to secondary (EAV) because there are numerous categories that still present difficult, though predictable, verification issues for SSA.

9. Status Verification for Fs, Ms, Js. Please explain any changes since our last meeting in status verification of students and exchange visitors in SEVIS. Are there any steps that F, M, and J sponsors can take to ensure they are timely verified by DHS for SSN issuance?

- Is SSA still faxing the G-845s to a DHS status verification center in L.A.? (Last year, we were advised that SSA faxes a secondary verification request to the DHS Immigration Status Verification facility in Los Angeles (LOS ISV), which utilizes "active status" data in SEVIS to confirm the foreign student or exchange visitor has been admitted to the country and properly checked in to his/her program. SSA was talking to the Student and Exchange Visitor Program (SEVP) and the SAVE staffs about getting

data more directly from the SEVIS program via SAVE to avoid the fax process).

Answer. *The process is the same as described above. However, SSA is expecting to receive electronic access to the SEVIS system from ICE.*

10. E and L Spouses. Thank you for updating guidance that E and L spouses do not need to present EADs when applying for SSNs.

- POMS RM 00203.500 (<https://s044a90.ssa.gov/apps10/poms.nsf/lnx/0100203500!opendocument>) advises that E-1/E-2 and L spouses may work inherent to status without an EAD upon proof of spousal relationship to the principal. RM 00203.600 is less clear. Will SSA consider clarifying the latter RM?

Answer. *SSA has verified that RM 00203.600 has been corrected and clarified. See <https://s044a90.ssa.gov/apps10/poms.nsf/lnx/0100203600!opendocument>.*

- We continue to have enumeration problems with L spouses and E principals and spouses. Issuing social security numbers incident to status represents a large number of our liaison requests. Any ideas how to improve getting this important information out to the field offices?

Answer. *CIS agreed to work on a table/overview of cases likely to go to secondary (EAV) because there are numerous categories that still present difficult, though predictable, verification issues for SSA.*

- We understand that SSA updated its guidance on E and L spouses based on USCIS guidance that these individuals are authorized to work incident to status. However, there is much confusion about whether an EAD is required for I-9 purposes to work, which we do not believe it should be. We believe the public would benefit from clarification on this issue.

Answer. *SSA and CIS both agree that the spouses of Es and Ls are authorized to be employed incident to status. However, CIS believes that an EAD is required for I-9 purposes under the regulations. CIS has agreed to consider this issue, and the Committee has again presented authority for the proposition that E and L spouses, like asylees, are authorized to work incident to status and do not require an EAD for I-9 purposes.*

11. K-1 Fiancées. What is SSA's position on enumeration for K-1 fiancées and where can it be found?

Answer. *K-1/2's are authorized to be employed incident to status pursuant to 8 CFR 274a.12(a)(6), "as evidenced by an employment authorization document issued by the Service." SSA assigns an SSN card based on Form I-94 with the legend "Valid For Work with DHS Authorization" Thus, an EAD is required for proper completion of a Form I-9.*

- Does SSA still recommend that F, J, M's report to their school or sponsor within 30 days to avoid going into an invalid status? How long after reporting should they appear in SEVIS? Is it still 48 hours?

Answer. Yes, continue to follow this procedure.

12. Blanket Ls. Some offices still insist on I-797 approval notices, which we believe is a training issue. We would be grateful for additional training on this point.

Answer. SSA is sensitive to this problem and will continue to train its staff. Meanwhile, a blanket L beneficiary should present with an application the SSA instruction at RM 00203.500, *Employment Authorization for Nonimmigrants*, which states that an L-1 nonimmigrant is authorized to work incident to status and that such status can be established by Form I-94.

Other Issues

13. EAE (Enumeration at Entry) for Nonimmigrants. The GAO reported in its March 2006 testimony before the House Subcommittee on Social Security, Committee on Ways and Means, that SSA and State officials agreed to explore expansion of EAE to E, H and L nonimmigrants.

- What is the status of these efforts? What is the current duplication rate in EAE for immigrants (i.e., where multiple SSNs are issued to the same person)?
- Last year, we learned that many duplications result from differences in name and other data formatting standards between the Department of State and SSA? What efforts have been made to resolve these discrepancies?
- When does SSA intend to introduce EAE for nonimmigrants?

Answer. EAE for nonimmigrants has basically been on hold because of an audit that found that immigrant visa applicants who used EAE were submitting second or duplicate applications after arriving in the U.S. resulting in the issuance of two SSNs to 12-13% of immigrants. The normal rate of duplicate SSN assignments in the general population is in the 2% area. SSA feels 12-13% is too high to begin the process for nonimmigrants. SSA does have procedures to identify duplicate applications if the applicant uses the exact same name. But in some cases applicants change their name after the first application or use some other form of their name. If this happens the duplicate application is not recognized and SSA can find itself issuing two SSNs to the same individual. SSA says that on a large scale this can cause them real problems. SSA's Office of Inspector General is planning a new audit in the summer of 2007 to investigate whether the duplicate application rate is still as high as the previous audit. If the audit shows a lower rate SSA will consider implementing EAE for nonimmigrants. It continues to be very important for AILA members to counsel immigrant visa applicants who use EAE at US Consulates to not submit a second application after arriving in the

US. If the applicant is experiencing problems obtaining a number under EAE, the AILA member should submit an AILA liaison request.

14. Payroll Guidance to Employers when SSA Delayed in Issuing SSN.

How should employers make/report FICA deductions when an employment-authorized foreign national is working while awaiting initial issuance of SSN? Due to long delays in enumeration, some employers refuse to place the employee on payroll until the SSN is issued. While employers can sometimes use "dummy numbers" as a placeholder until SSN issuance, many refuse to do so or are prevented by their payroll system (e.g. PeopleSoft) from using a dummy number. Also, due to the increase in ICE enforcement actions, many employers are reluctant to accept a workaround due to concerns that the "irregularity" on the I-9 will trigger some sort of immigration liability. This causes unnecessary hardships for employers and employees.

- Please provide copies of any policy memos or guidance on how employers can fulfill their withholding agent responsibilities while waiting for the employee's SSN, including IRS links/guidance.

Answer. No change. Guidance listed below still applies.

- For new employees who have applied for an SSN but have not received the card before the W-2 is filed, should employers still enter all zeros in the SSN block if filing electronically or on magnetic media and "Applied for" in box (d) on paper forms W-2?

Answer. Yes. Employers should use a "dummy placeholder" if permitted by the payroll processing software and then correct upon issuance of the SSN. If the software does not permit, enter all zeros if filing electronically or "applied for" if filing by paper.

- When an SSN is received, should the employer still file Form W-2c with SSA showing the SSN assigned? (Employers should consult the *Employer's Guide to Filing Timely and Accurate W-2 Wage Reports*, Social Security Administration Office of Income Security Programs, SSA Pub. No. 16-004, ICN 361752, April 2004, available at www.ssa.gov/.)

Answer. Yes

SSA's Role in the Secure Border Initiative

15. SSN No-Match Letters. Please provide copies of SSA's current policy guidance on no-match letters with emphasis on changes since our last meeting.

- What triggers the letter? How many were issued in TY07 and how many does SSA expect to issue in TY08? When can employers expect to receive these letters?
- How many employers are reporting no-match data? How many employee records show no-match data? How much is in the earnings suspense

fund, and how much has been properly allocated as a result of the no-match program?

- We have had reports that SSA has rejected W-2 reports based on an allegedly high rate of mismatches. Has SSA rejected W-2 reports for this reason? Please explain applicable policy and guidance.

Answer. *SSA is following the same no-match criteria and procedures as last year (please see minutes from 2006 liaison meeting).² This year SSA plans to send out approximately 138,000 no-match letters to employers. As of June 2007, the letters have not been sent and are being held pending decisions on the new ICE regulations. Depending on what it says, the final ICE regulation may affect the format of SSA's no-match letter. Letters normally will not be sent out all at once, but throughout the year on a "flow" basis. SSA first sends the letter to the employee, then to the employer. SSA does not keep records of how many employers respond to no-match letters. SSA adds about 9 million items per year to the Earnings Suspense Fund. As a practical matter, there is no money sitting the Fund. The earnings credited to the Fund have been moved to help pay current benefits but individual accounts have not been credited with the deposits. SSA has a policy to reject W-2 reports when 95% of the employees are no-matches. SSA assumes this means there was a problem in the way the report was submitted, usually the result of a software problem. SSA has not had any cases where large proportions of a single report were no-matches because of a real no-match.*
**NB - As of 10/20/07, SSA had still not sent out any EDCOR letters.*

16. Employer's Obligation in Response to Mismatch Letter. Please answer the following:

- As far as SSA is concerned, what is the employer obligation in response to a mismatch letter from SSA? Does USCIS/SAVE have a position?
- Under ICE's proposed safe-harbor regulation, there are certain cases when an employee should obtain a written receipt for a replacement SSN card or written verification that an SSN has been corrected. What documents does SSA issue in this regard and in what timeframes?

² From 5/8/2006 Minutes: SSA first sends Decentralized Correspondence (DECOR) letters to employer, employees, and self-employed individuals who file W-2/self-employment reports with a name/SSN combination that does not match SSA records. After two weeks, SSA sends Educational Correspondence (EDCOR) letters to employers if more than 10 W-2s in wage report do not match SSA's records and the no-match exceeds 0.5% of the W-2 items in the report. Employers who file 11 to 2,200 Forms W-2 will receive a letter if 11 or more of the wage items in the report are no-matches. SSA also notifies employers who file more than 2,200 Forms W-2 if the no-matches exceed 0.5% of the total number of Form W-2 items in the file. SSA provides the reported employee's name, SSN, reported earnings, and tax year with a request that the employer provide the correct employee name and SSN.

- In light of the high incidence of employers who have been targeted for criminal prosecution and the discovery that many received no-match letters, is SSA considering revising its standard letter that cautions an employer that the letter should not serve as a basis for terminating an employee? Are any changes contemplated because employers may be lulled into taking a more laissez-faire approach because of the language in the current letter?

Answer. SSA believes their expectations from employers are clearly indicated in the no-match letter. Employers can use SSNVS to obtain evidence that data in the SSA system has been corrected following a no-match letter and employee inquiry. SSNVS now provides a screen that indicates the last four digits of the SSNs that are verified as accurate. SSA expects to provide the ability to print out the name and first four digits of a matching SSN by September 2007. Previously only no-matches or non-verifications were indicated. The screen can be printed and kept as evidence of the change. Employees can also ask local offices for evidence of the corrected information and provide that to employers who may need to use it if some form of the ICE regulation is implemented. SSA has no information on the status of the ICE regulation. SSA is not considering changing the language as suggested in the question. However, the letters might have a new format if the ICE regulation is finalized.

17. SSNVS. Please describe SSNVS and its utility in verifying a name/SSN match.

- How can it be accessed?

Answer. www.ssa.gov/employer. Select “. [Learn How to Use SSNVS](#)”, which provides a brief explanation of SSNVS and access to Business Services Online where an employer can register to use SSNVS.

- Are there any restrictions or Privacy Act implications related to an employer's use of SSNVS to verify a name/SSN match?

Answer. SSNVS is to be used only for wage reporting purposes. It should not be used for pre-hiring verification. This would be a Privacy Act violation.

- Can an employer use SSNVS to verify numident data for an entire workforce?

Answer. Yes, an employer can use SSNVS to verify an entire payroll. Employers can verify up to 250,000 in batch.

- A number of states have begun to impose additional requirements on employers in connection with employment verification. One state statute appears to require employers to verify SSN/name matches of independent contractors. Is this a lawful use of SSNVS?
- Are there penalties for improper use of SSNVS?

Answer. Even though SSA is not an enforcement agency, SSA will inform the Inspector general of any suspected misuse of SSNVS.

- Please describe the ability of SSNVS to provide printable confirmation of verification.

Answer. An employer can verify up to 10 names and Social Security Numbers per screen and receive an immediate response. Currently SSA provides a count of the names and SSNs that matched and those that did not match SSA's records. SSA also provides a list of all mismatches (the incorrect name/SSN combination.) Beginning August 27, 2007 SSA will return all names entered. Where there is a mismatch SSA will return the input SSN. For SSNs that match the name SSA will only return the last 4 digits of the SSN. For files of up to 250,000 names and SSNs the same holds true, beginning August 27, 2007 SSA will return all names and SSNs in a mismatch, but only the last 4 digits of a correct SSN.

18. The Basic Pilot Program. Please describe the Program.

Answer: The Basic Pilot Program, now called "E-Verify", is an ongoing joint initiative in which SSA supports Department of Homeland Security (DHS) (formerly INS) in assisting participating employers in confirming employment eligibility for newly hired employees, regardless of their citizenship. Participation in the Basic Pilot program is voluntary and free to participating employers. Employers who agree to participate must sign a memorandum of understanding (MOU) with DHS.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), P. L. 104-208, required SSA and then INS to conduct three pilots for providing an effective, nondiscriminatory electronic process for employers to confirm employment eligibility for their workforce. The Basic Pilot is one of the three pilots tested. The Basic Pilot Extension and Expansion Act, P. L. 108-156, expanded the pilot to include employers in all 50 states effective December 1, 2004. The other two pilots, the Machine Readable Pilot and the Citizenship Attestation Pilot, were not extended.

The "Basic Pilot" has been available for employers to use on a voluntary basis for nearly a decade. The web-based version of this program was first made available to employers in June 2004, and is the only U.S. Citizenship and Immigration Service (USCIS) electronic employment verification program available to employers. It provides the means for employers to electronically verify identity and work eligibility of employees and serves as a model for how this service may be provided to the employer community on a mandatory/legislated basis.

- What are the data components and what is the role of SSA data in the Program?

Answer: Under earlier legislation (IRCA) employers must complete a USCIS I-9 form all newly hired employees. E-Verify complements the I-9 process. After the employer or the employer's designated agent registers for the Web Basic Pilot, signs the (MOU) with USCIS, and completes required online training, participating employers may perform electronic verification of every newly hired employee.

Here is an overview of the steps E-Verify uses to confirm employment authorization:

1. To verify work authorization for a newly hired employee, the employer submits information to USCIS' E-Verify system over a secure connection to the Internet. This information includes the new hire's SSN, name, date of birth, citizenship and alien status, and, if relevant, A-number/Admission Number from the Form I-9.
2. Next, E-Verify sends the data input by the employer to SSA to match the SSN, Name, and Date of Birth against SSA's NUMIDENT database. The systems also checks for certain other discrepancies on the SSA record. In addition, the system will determine if SSA's record confirms U.S. citizenship.
 - a. If there is some discrepancy with the NUMIDENT data—(e.g., identifying data does not match, and/or if the new hire alleged U.S. citizenship but citizenship could not be confirmed) E-Verify (VIS) will generate an "SSA Tentative Nonconfirmation."
 - b. If there is no discrepancy with the NUMIDENT and U.S. citizenship is confirmed based on this SSA record, then E-Verify (VIS) will generate an "Employment Authorized" message.
3. If there is no discrepancy with the NUMIDENT but U.S. citizenship is not confirmed based on NUMIDENT, VIS will send the query to check DHS' databases to verify work authorized alien status.
 - a. If work authorized alien status is confirmed based on DHS database, then E-Verify (VIS) will generate an "Employment Authorized" message.
 - b. If work authorized alien status is not confirmed based on DHS database, then E-Verify (VIS) will generate a "DHS Tentative Nonconfirmation" message.

No SSA data is revealed to DHS or the employer. E-Verify just returns generic messages that indicate either data matched or did not match against SSA's records.

- In the event of a Tentative Nonconfirmation, the employer is required to ask the employee to make a correction or otherwise resolve the discrepancy with SSA. What documentation does SSA issue to an employee who successfully resolves a discrepancy? Is the employer expected to file any paperwork with SSA to document the resolution or to change the record upon receiving information from an employee that an issue has been resolved?

Answer: If an employer receives a tentative nonconfirmation (TNC) in response to an E-Verify query about an employee's work authorization due to a mismatch between information provided in the query and information in SSA's NUMIDENT, and the employee chooses to contest the finding, the employer must instruct the newly hired employee to visit an SSA Field Office within 8 Federal Government workdays to resolve any discrepancies on his/her record. The employer must also print a referral letter for the employee to carry with him/her to the SSA FO.

Once contacted by the employee, SSA has 10 Federal Government workdays to resolve the contested case. During this time, an employer may not terminate or take adverse action against the employee based on his/her employment eligibility status or decision to contest the SSA TNC unless a final confirmation or nonconfirmation is made within that timeframe.

To resolve the SSA TNC, the employee must bring the referral letter to the local SSA field Office (SSAFO) and present documentary evidence of identity, U.S. citizenship or alien status, and in certain instances, proof of age to support any proposed change to the NUMIDENT record. SSA must see original documents.

If the employee presents all of the required documentary evidence the SSAFO will take an SS-5 (Application for Social Security card). Sometimes the SSAFO must verify documentary evidence with the issuing entity. If all of the evidence documents are acceptable and all enumeration requirements are met, SSA will process the SS-5 application by updating the employee's Numident record and issuing an original or replacement SSN card **if appropriate**.

Under the current process the SSAFO will sign and stamp the Referral Letter and tell the employee to return it to the employer. Upon receipt of the stamped Referral Letter, the employer would resubmit the employee's information (updating it, if necessary) through E-Verify for a final work authorization determination.

CIS will provide additional information on recent changes to Basic Pilot and has offered AILA a policy meeting on this important program. . One forthcoming change this fiscal year is that SSA will automate this secondary query.

Currently, 92% of queries in Basic Pilot are verified immediately (within 3 seconds). Out of remaining 8%, some are discrepancies between databases, and others have substantive eligibility problems (e.g. not work authorized).

19. Sharing No-Match Data. Please explain any changes since our last meeting in SSA's authority to share no-match data. We understand that the privacy of wage reports is protected by federal law, and we would like to understand the basis of SSA's authority to share this data. With whom does it share such data?

- By what authority does SSA's Inspector General share mismatch data with ICE or US Attorneys in joint investigations? What constitutes a joint investigation?
- We understand that there may have been Executive Order(s) authorizing SSA to share mismatch data or related wage information with other federal agencies. If so, please explain.
- We understand that federal law allows SSA to share mismatch data or related wage reporting information with other agencies in "life-threatening" situations. Does SSA base its authority to share data with ICE on this provision? If so, please explain.

- What are the guidelines for releasing this information and does SSA advise the employer that it is sharing information with other agencies? If not, why not?
- Are statistics kept regarding the number of times this information has been released in the past several years?
- Does SSA still share with DHS reports of work activity on non-work accounts?
- Is SSA considering changing its NWA (non work alien) data so that A-numbers and/or admission numbers (I-94 numbers) are provided to DHS?
- To what extent are worker names and SSNs presently identified by IRS to SSA and/or DHS as individuals filing tax returns based on ITINs?

Answer. *AILA was referred to SSA's Inspector General on these issues and has inquired accordingly.*

20. Account Transfers. When an individual files a Form 7008 to request the transfer of social security earnings from one SSN to another, when if ever would SSA refer such requests for investigation? Last year, we learned that SSA would refer requests to transfer Social Security earnings if it had information that someone is selling a large volume of numbers, but it would not refer individuals using the card for employment. Has there been any change in this policy?

Answer. *SSA is not a law enforcement organization and, as such, does not have an enforcement mission. However, where it becomes apparent that there is an egregious abuse, SSA may refer to ICE for appropriate action.*

Respectfully submitted,

Denise C. Hammond for AILA

Reviewed and approved by:

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FOLLOW UP QUESTIONS AND ANSWERS TO AILA LIAISON MEETING HELD APRIL 23, 2007

1) Description or summary of the new SS-5 and EAV (electronic additional verification) procedures.

SAVE: Background

The Department of Homeland Security (DHS) has recently implemented substantial changes in the architecture of their **SAVE (Systematic Alien Verification for Entitlements)** system. With this new architecture in place, the primary access methods employ “web” technologies. SSA uses two different forms of web access to **SAVE**:

- A browser-based interface available to customer agencies. DHS refers to this as “Web-3.” SSA uses this web method to get verification in **claims** situations.
- A web service is available to customer agencies which provides customer agency programmatic applications with the ability to interact with **SAVE**. The web service is referred to in DHS documents as the **Customer Processing System (CPS) Agency Web Service Access Method**. SSA uses this web method to get verification in **enumeration** situations.

SAVE for Enumeration Actions

As outlined above SSA uses the web service access method in enumeration situations. We use this access method because since March 1, 2005, all SSA field offices are required to use the SS-5 Assistant when processing SSN card applications. The “SS-5 Assistant” is a Microsoft Access-based application that works in conjunction with the Modernized Enumeration System (MES) and is intended to increase control over the SSN application process, improve the quality of data used to assign an SSN, and enable management to better control this workload.

How Does the SS-5 Assistant Query SAVE?

As part of the application process, the SS-5 Assistant will automatically submit an initial verification request while in the application path. The SS-5 Assistant also evaluates the initial verification results received immediately back from DHS and makes a verified or non-verified decision for the user. This part of the SAVE verification process through the SS-5 Assistant has not changed. However, what has changed is if the initial verification request does not verify with the DHS SAVE system, an electronic additional verification (EAV) request can now be made instead of sending a paper G-845. An EAV request is made at the end of the application path.

SSN Application Immigration Document Verification Process – General

- Take the application
- Submit a SAVE initial verification (IV).
- If the SAVE IV verifies we continue processing the application.
- If the IV does not verify, we make copies of the immigration documents.

- We determine whether or not to hold the application until the 10 day mark; at the 10 day mark we re-submit a SAVE IV to determine if the status now verifies.
- If the SAVE IV verifies we continue processing the application; if it doesn't we submit an electronic additional verification (EAV).
- We wait for a DHS EAV response.
- When EAV response indicates:
 - Status is verified - we continue processing the application
 - Status is not verified - we deny the application
 - "Resubmit Doc (Need copy original)" we send a paper G-845 with photocopies of the immigration document to DHS.

When paper G-845 is still used

- The immigration document does not show an A number or admission number;
- The immigration document appears suspicious/fraudulent; and
- The DHS response to an electronic additional verification response is "Resubmit Doc (need copy original) – i.e., DHS needs to see a copy of the actual immigration document submitted.

2) Summary of SSA policy on acceptable foreign evidence for purposes of proving marital relationship.

Foreign evidence is evaluated based on SSA's Office of International Policy general foreign evidence guidelines. Specific evaluation guidelines available to the public are found in SSA's website (www.ssa.gov) under Program Rules, [POMS: GN 00307.000 - Foreign Evidence Table of Contents - 12/17/99](#) .

3) We did not have time to follow-up on the agenda question regarding Privacy Act implications of an employer's use of SSNVS to verify independent contractors and their employees and would appreciate any guidance. Also, are there penalties for an employer's use of SSNVS in a manner that violates the Privacy Act?

Employers are allowed to verify name/SSN information for any of their employees for wage reporting purposes, in other words if they issue them a W-2 form. Independent contractors are normally issued a 1099 and wouldn't be allowed to use SSNVS.

As far as penalties, if SSA finds that someone is misusing SSNVS, then we would revoke their ability to use it. We may also revoke their employer the privilege of using SSNVS. We do inform the Inspector General of any misuse and they use their authority to investigate the misuse and to determine whether to notify the US Attorney of the misuse. The US Attorney has the authority to prosecute the misuse.

Furthermore, if the user commits a Privacy Act violation or violates any other law or regulation, the user could be subject to the penalties covering those laws or regulations.

4) Who at SSA may we contact on totalization issues for employees seconded to a foreign entity?

The contact is Gerry.M.Shepherd @ ssa.gov, telephone number 410-965-4538.

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