

# CHECKLIST | E-Verify: Completing a Case

Presented by Foundation Benefits

Federal law requires employers to hire only individuals who may legally work in the United States—either U.S. citizens or authorized foreign nationals. To comply with the law, employers must verify the identity and employment authorization of each individual they hire by completing and retaining the Employment Eligibility Verification document (Form I-9).

The federal government implemented E-Verify to enhance the enforcement of immigration law. While E-Verify is a voluntary program for most employers, utilizing it can help employers improve their Form I-9 compliance, limit potential violations and help simplify the process of verifying employees' identities and employment eligibility.

## Overview

E-Verify begins with a completed Form I-9. First, an employer enters an employee's Form I-9 information into E-Verify. Then, E-Verify confirms the employee's employment eligibility by comparing the employee's Form I-9 information against records from the U.S. Social Security Administration (SSA) and the U.S. Department of Homeland Security (DHS). The process of verifying an individual's employment eligibility is referred to as a "case" and typically takes only a few seconds. From there, E-Verify confirms the employee's employment eligibility or indicates that the employee needs to take further action to establish eligibility.

While E-Verify may seem straightforward, the system is challenging and can be complicated to learn. Keeping up to date on changes and employee training can be costly and time-consuming. This checklist aims to help employers navigate the E-Verify process and ensure key steps are not missed. Employers may also reference the [E-Verify User Manual](#). The information covered in this checklist comes from the DHS' most current guidance for employers. Employers can find out more on the DHS [website](#).

This checklist is designed to be used by employers who have already enrolled in E-Verify and is intended to be used as a guide. The steps in this list should be modified to meet the unique needs of an organization. Due to the E-Verify's special rules and requirements relating to document acceptance, retention and processing, employers are encouraged to seek legal counsel to address specific issues and concerns.

## Initiating the E-Verify Process

Creating an E-Verify Case	Yes	No	Other
Before creating an E-Verify case for an employee, has each employee completed <b>Form I-9</b> ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has each newly hired employee with a <b>Social Security number</b> provided it on their Form I-9?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization's registered user created an <b>E-Verify case</b> for each newly hired employee <b>no later than three business days</b> after the newly hired employee starts work for pay?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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Has the organization’s registered user entered the required information from <b>Sections 1 and 2</b> of the employee’s Form I-9 into E-Verify?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization’s registered user entered the employee’s <b>citizenship status from Section 1</b> of the employee’s Form I-9 into E-Verify?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If the employee entered an <b>email address</b> in Section 1 of Form I-9, has the organization’s registered user entered the employee’s email address into E-Verify?  <i>While the email address field is optional in E-Verify, the organization must enter it into E-Verify if the employee entered an email address.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization’s registered user conducted a <b>final review</b> to make sure the information entered into E-Verify matches the information on the employee’s Form I-9 before sending the E-Verify case for verification?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If the E-Verify case results in a <b>mismatch</b> , has the organization’s registered user checked the data against the employee’s Form I-9 to ensure there are no data entry errors?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If there are <b>data entry errors</b> , has the organization’s registered user closed the employee’s E-Verify case using the case closures statement: <b>“The case is invalid because the data entered is incorrect”</b> ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If the employee has been <b>terminated</b> , has the organization determined how long to retain the terminated employee’s Form I-9?  <i>An employee’s Form I-9 must be retained for either three years after the date of hire or one year after the date of termination, whichever is later.</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## E-Verify Photo Matching

If an employee presents a **Permanent Resident Card** (Form I-551), **Employment Authorization Document** (Form I-776) or a **valid U.S. passport or passport card**, E-Verify prompts the organization’s registered user to compare the photo ID on the employee’s document to a photo displayed in E-Verify. Matching the two photos helps ensure the validity of the employee’s documents. The following steps are to assist employers in completing E-Verify’s photo matching:

Photo Matching Process	Yes	No	Other
If the employee presented a Permanent Resident Card (Form I-551), Employment Authorization Document (Form I-776) or a U.S. passport or passport card from <a href="#">List A of Acceptable Documents</a> , has the organization’s registered user entered the employee’s <b>document number</b> into E-Verify as it appears on the document?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization made and kept a <b>copy of all documents</b> that trigger photo matching (e.g., Permanent Resident Card (Form I-551), Employment Authorization	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Document (Form I-776) and U.S. passport or passport card) with the employee’s completed Form I-9?			
Has the organization’s registered user <b>compared the photo</b> displayed by E-Verify to the photo on the document presented by the employee and determined that the photos are identical?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization’s registered user selected <b>“Yes”</b> or <b>“No”</b> to indicate whether the photo on the document matches or does not match the photo displayed by E-Verify?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>If the employee chooses to take action to resolve a DHS mismatch because of a photo mismatch, has the organization’s registered user followed the mismatch process, as described in the <a href="#">E-Verify User Manual</a>?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>If the employee chooses to take action to resolve a DHS mismatch because of a photo mismatch, has the organization’s registered user attached and submitted a copy of the employee’s photo document either electronically or via express mail to E-Verify?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>If the employee chooses not to take action to resolve a DHS mismatch because of a photo mismatch, has the organization’s registered user followed the mismatch process, as described in the <a href="#">E-Verify User Manual</a>?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Tentative Nonconfirmation

A **Tentative Nonconfirmation** occurs when the information an organization’s registered user enters into E-Verify from the employee’s Form I-9 does not immediately match information from either DHS or Social Security Administration (SSA) records. This does not necessarily mean that the employee is not authorized to work in the United States. If desired, employees must be allowed to resolve a Tentative Nonconfirmation. While an employee takes action to resolve a Tentative Nonconfirmation, the employee must be permitted to work without any change in working conditions based on the Tentative Nonconfirmation. The following steps are to assist employers in addressing a Tentative Nonconfirmation:

Tentative Nonconfirmation Process	Yes	No	Other
Has the organization printed the <b>Further Action Notice</b> and privately reviewed it with the employee?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>If the employee speaks a language other than English or Spanish, has the organization provided the employee a copy of the prepopulated English-language version of the Further Action Notice in the requested foreign language?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization provided the employee with a <b>reasonable amount of time</b> to decide if they want to resolve the Tentative Nonconfirmation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the employee indicated on the English-language version of the Further Action Notice their decision to take or not take action to resolve the Tentative Nonconfirmation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Have both the organization and employee <b>signed</b> the English-language version of the Further Action Notice after the employee selects whether or not to take action to resolve the Tentative Nonconfirmation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization provided a <b>copy</b> of the signed English-language version of the Further Action Notice to the employee along with a copy in the employee’s requested language, if applicable?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization <b>stored</b> the original signed English-language version of the Further Action Notice with the employee’s completed Form I-9?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>If the employee decided not to take action to resolve the Tentative Nonconfirmation, has the organization informed the employee of the possibility of being terminated?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>If the employee decided not to take action to resolve the Tentative Nonconfirmation, has the organization’s registered user selected the appropriate case closure statement and closed the case?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>If the employee decided to take action to resolve the Tentative Nonconfirmation, has the organization’s registered user selected “Continue” to refer the case?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization’s registered user periodically checked E-Verify to ensure all Tentative Nonconfirmations have or have not taken action to be resolved?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

## Referral Process

### SSA Referral

An employee who chooses to resolve an **SSA Mismatch** is referred to the SSA. The organization must promptly print and verify the information on the **SSA Further Action Notice**. Both the organization and the employee must sign the English-language version of the Further Action Notice. The organization must also file the English-language version of the Further Action Notice with the employee’s Form I-9 as well as provide the employee with a copy. Additionally, the organization needs to provide the employee with a copy of the **SSA Referral Date Confirmation**, which provides the date by which the employee must visit SSA. The following steps are to assist employers in completing E-Verify’s SSA referral process:

SSA Referral Process	Yes	No	Other
Has the organization’s registered user printed the <b>SSA Referral Date Confirmation</b> for each employee electing to take action to resolve an SSA mismatch?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>If the employee speaks a language other than English or Spanish, has the organization provided the employee a copy of the prepopulated English-language version of the SSA Referral Date Confirmation along with a copy of the document in the requested foreign language?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization <b>reviewed</b> the SSA Referral Date Confirmation with the employee in private?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Has the organization explained to the employee that to avoid possible termination, the employee should visit an <b>SSA field office within eight federal government workdays</b> from the date printed on the Referral Date Confirmation?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>In cases involving SSA mismatches based on a failure to confirm U.S. citizenship, has the organization explained to the employee that they can call the DHS at 1-888-897-7781 to resolve the mismatch?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization <b>retained</b> the English-language version of the SSA Referral Date Confirmation with the employee’s completed Form I-9?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Has the organization informed the employee that when an employee receives an SSA mismatch, they are allowed to <b>continue working without a change</b> in working conditions that are based on the mismatch <b>while the mismatch is being resolved</b>?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization’s registered user selected the <b>correct case closure statement</b> to close the case?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

*DHS Referral*

An employee who decides to take action to resolve a **DHS mismatch** is referred to the DHS. The organization’s registered user must promptly print and verify the information on the **DHS Further Action Notice**. Both the organization and the employee must sign the English-language version of the Further Action Notice. The organization must retain the original notice with the employee’s Form I-9. The organization must also provide the employee with a copy of the notice and the **DHS Referral Date Confirmation**, which provides the date by which the employee must contact the DHS. The following steps are to assist employers in completing E-Verify’s DHS referral process:

DHS Referral Process	Yes	No	Other
Has the organization’s registered user printed the <b>DHS Referral Date Confirmation</b> for each employee choosing to take action to resolve a DHS mismatch?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>If the employee speaks a language other than English or Spanish, has the organization provided the employee a copy of the prepopulated English-language version of the DHS Referral Date Confirmation along with a copy of the document in the requested foreign language?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization <b>reviewed</b> the DHS Referral Date Confirmation with the employee in private?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Has the organization explained to the employee that to avoid possible termination, the employee should contact the DHS at 1-888-897-7781 within eight federal government workdays from the date printed on the Referral Date Confirmation?</i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
If the employee decides to take action to resolve the DHS mismatch, has the organization’s registered user selected <b>“Continue”</b> and <b>referred the case to the DHS</b> ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Has the organization <b>retained</b> the English-language version of the DHS Referral Date Confirmation with the employee’s completed Form I-9?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<i>Has the organization informed the employee that when the employee receives a DHS mismatch, they are allowed to <b>continue working without a change in working conditions that are based on the mismatch while the mismatch is being resolved?</b></i>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization’s registered user selected the <b>correct case closure statement</b> to close the case once the DHS returned a final employment determination?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization’s registered user <b>referred the employee to the DHS</b> if the employee received a <b>mismatch due to citizenship status</b> ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

### Completing E-Verify Process

To complete the E-Verify process, every case must receive a **final case result** and be **closed** with the applicable **case closure statement**. There are four possible final case results: **Employment Authorized**; **DHS or SSA Final Nonconfirmation**; **DHS No Show**; or **Error: Close Case and Resubmit**.

E-Verify **automatically closes** cases resulting in “Employment Authorized.” This means the employer has completed the E-Verify process for that employee.

The following steps assist employers in completing E-Verify’s final case resolution process:

#### Final Case Resolution

Final Case Resolution Process	Yes	No	Other
Has the organization’s registered user <b>reviewed the case status</b> for employees who have E-Verify cases pending with the DHS or the SSA?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization’s registered user <b>closed “DHS No Show”</b> cases using the correct case closure statement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization’s registered <b>user closed all cases</b> using the correct case closure statement once an <b>SSA or DHS Final Nonconfirmation</b> was received?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization <b>notified</b> the DHS when an employee who received a Final Nonconfirmation was not terminated by entering the correct case closure statement?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

#### Final Case Closure Statement

There are 12 different case closure statements. Employers must close every case created in E-Verify using the appropriate case closure statement. The following steps assist employers in completing E-Verify’s final case closure statement process:

Final Case Closure Statement Process	Yes	No	Other
Has the organization’s registered user <b>closed every case</b> created in E-Verify?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization notified the DHS if an employee is still working by selecting <b>“Yes”</b> or <b>“No”</b> under the termination option?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization’s registered user selected the appropriate <b>case closure statement</b> ?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization recorded the <b>case verification number</b> on the employee’s Form I-9 or printed and attached the case details screen to the employee’s completed Form I-9?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Has the organization <b>retained</b> the employee’s completed Form I-9, including electronic copies, and all attachments in a secure location?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
For all cases when E-Verify did not confirm that the employee was eligible to work and issued a <b>“Final Nonconfirmation”</b> or <b>“DHS No Show”</b> result, has the organization’s registered user selected the correct case closure statement before closing the case?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Strategies for implementing a successful Form I-9 process will likely vary depending on the size of the organization and the location of employees, but an effective process can help reduce potential legal exposures while saving time and money. E-Verify is one strategy employers can consider to improve their Form I-9 process and ensure compliance, as it can assist employers in complying with federal immigration law by quickly and easily confirming newly hired employees’ identities and employment eligibility. E-Verify compliments Form I-9 by enhancing employment verification processes. It can also improve operational and administrative efficiency to save an organization time and money and reduce potential legal liabilities.

For more employment resources, contact Foundation Benefits today.