

# **Proposed Public Policy Plan for Qualified Worker Verification and Enforcement**

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August 27, 2007



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## **Proposed Public Policy Plan for Qualified Worker Verification and Enforcement**

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Date: August 27, 2007  
To: U.S. House of Representatives and U.S. Senate  
From: Kevin P. McNamee – Director of the California Health Institute  
Re: Qualified Worker Verification in the United States

### **Proposed Public Policy Plan for Qualified Worker Verification and Enforcement**

Current employer screening of a prospective employee is the I-9 which requires the employer to make a photocopy of the social security card and the driver's license or U.S. Passport. The error with this verification method of a qualified worker is the fraudulent driver's licenses and/or stolen social security numbers used in the workforce. An employer is not compelled to verify the authenticity of these documents. The result is that some employers knowingly hire illegal alien labor to reduce their costs and increase their profit margins. This situation hurts the qualified, legal and native working poor because the surplus of illegal alien labor drives down wages and increases the unemployment of low skilled, legal workers. It also penalizes law-abiding employers while it rewards the unscrupulous employer. Qualified, legal employees command higher wages, and employers must pay taxes, benefits, insurance associated with pay-roll expenses.

To address this unfair situation, the employers should be required to contact the Social Security Administration to verify that the applicant's social security number matches the identification provided. This helps ensure these forms of identity have not been stolen or are fraudulent.

The steps listed below will increase the qualified native and legal worker's employment and remove the labor surplus which is suppressing wages of low skilled native workers. The proposed plan for Qualified Worker Verification and Enforcement requires the cooperation of the six entities: the employer, the State government, Social Security Administration, Immigration and Customs Enforcement (ICE), and the Internal Revenue Service (IRS). Each provides a check for the employment status and/or enforcement of a qualified worker in the United States. Appropriate penalties for hiring an unqualified illegal alien worker has both financial and incarceration consequences for repeat offenders.

## **Action Steps:**

### **I. Employer Actions:**

When there is a new hire:

1. Obtain a copy of the person's drivers license and social security card OR U.S. passport and social security number.
2. Contact Social Security Administration (by internet or telephone):
  - i. Provide Employers tax ID number, the prospective employee's name, Social security number, weekly hours to be worked, and date of hire.
  - ii. Employer receives and records the Employer Verification Code (EVC) in the employment record and for reporting quarterly payroll to the State and Federal/IRS governments.
3. Every quarterly State Payroll Report is to include the persons name, social security number, Employment Verification Code (EVC) from the Social Security Administration and the total wages paid. (NOTE: Employment Verification Code (EVC) is the only addition to the current reporting required for the quarterly report.)
4. When the employment is terminated, the employer is to contact the Social Security Administration notifying them of the person's termination date.
5. IRS tax returns are to include the names of all employees for that year, corresponding social security number, Employment Verification Code (EVC) and gross wages paid.

(Note: Contact with Social Security Administration to obtain an EVC may be through the internet [similar to the IRS employer payroll tax deduction website] or by telephone.)

### **II. Social Security Actions:**

1. When an employer calls to obtain an employer verification code, Social Security asks the employer's tax ID number, prospective employee's name, social security number, and the number hours per week to be worked.
2. If the name and social security number match, the employer is given an employment verification code to be used for State and Federal tax reporting of payroll deductions.
3. If the prospective employee's name and social security number **DO NOT** match:

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- i. Investigate to determine if it is due to multiple spellings, clerical error, etc.
  - ii. The employer is told there will be no Employment Verification Code (EVC) ICE will be contacted and the employer is requested to retain the application and copies of any documents for the investigation.
  - iii. ICE is contacted for an investigation of a possible illegal alien trying to work in the country.
4. If the prospective employee's record shows more than 3 job sites and/or working more than 80 hours per week or it is geographically impossible to be in two or more places at once, then the following action occurs:
  - i. Investigate as to exceptions for this situation which may include
    - Professions that may require greater than 80 hour work week such as a medical or accounting internship, etc.
    - Employee desires to work in more than three jobs and/or greater than 80 hours per week.
    - Independent contractor status as defined by the IRS.
  - ii. If the social security and/or identity appear to be stolen:
    - ICE is contacted for an investigation of a possible illegal alien trying to work in the country.
    - The person is sent a letter at the last known address notifying them of a possible identity theft and encourage them to take appropriate action.
5. When employment is terminated, the employer notifies Social Security of the employment status change. This releases the worksite and weekly work hours from the person's employment record. The employer is given a termination code to be added to the end of the Employer Verification Code (EVC) to indicate that the employee is no longer at the worksite. This serves as notification to the State and Federal tax reporting agencies that the employee's work status has changed. For example: T012007 indicates the employment ended January 2007. The employer will place this code at the end of the EVC for the quarterly State pay roll and annual Federal payroll tax filing. The payroll deduction is only valid for the first quarter of 2007.

**III. State Actions:**

1. Entry of the State's Quarterly Payroll Reporting includes the employees name, social security number, Employment Verification Code (EVC) and total wages paid for the period. If the Employment Verification Code (EVC) does not match the social security number, the State contacts the employer for clarification due to possible clerical errors.
2. If the verification code does not match the social security number:
  - i. Investigate to determine if there is a clerical error or stolen identity.
  - ii. The State audits the employers payroll records,
  - iii. contacts ICE for an investigation and
  - iv. contacts the IRS for an audit.
3. If the employer knowingly hired an illegal alien, appropriate penalties will be applied. (Disallowing the salary and wage deduction from the employer's State and Federal tax returns plus fines, interest, penalties and/or incarceration.)

**IV. ICE Actions:**

1. When notified by Social Security Administration the State and/or other source that a possible illegal alien worker is trying to obtain employment, an investigation is opened. The employer is contacted to obtain data such as copies of the application, social security card drivers license and any other investigative information to locate the person and take appropriate action -- incarceration and/or deportation.

**V. Internal Revenue Service Actions:**

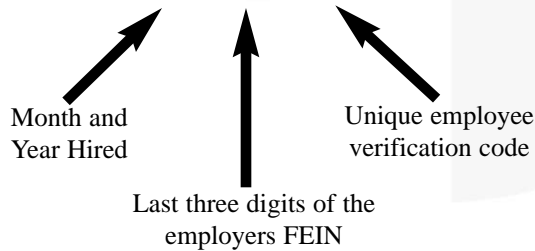
1. During all audits, the IRS agent is to confirm that payroll expenses are for qualified workers by verifying that the employer verification code and social security number match.
  - i. For companies of 20 or fewer employees, all employees are to be verified. For companies of 21 or more, a random sample may be done which gives at least a 95% confidence level.
  - ii. If the validation code is not valid due to clerical error, the employer is allowed to correct the validation code and maintain the payroll deduction. Otherwise the payroll deduction is disallowed. Interest and penalties and/or incarceration are applied for fraud due to hiring an illegal alien worker.

**VI. Employer Verification Code (EVC):**

The Employer Verification Code (EVC) is used to demonstrate the employer's verification of a qualified legal or native worker and for use when communicating with the State Quarterly Payroll reporting and the Federal governments tax filing. The Employer Verification Code (EVC) is a unique identifier for the employer and employee while hired at that particular work-site. It includes:

- the employee's hire date (Four Digit Year, Two Digit Month);
- the last three digits of the employer's FEIN;
- two letters and
- a unique four digit employee code

For example: 2007 12-528-AC-4912



This number says the person was hired in the month of December 2007 with a company last three FEIN numbers of 528 and a unique employee identifier of AC4912.

When the employee is **terminated**, the employer contacts Social Security with the date of employee termination. The employer is to add the letter T and the month and year of termination to be used on the State and Federal reporting. The verification code for a person terminated January of 2008 is T012008

For example: 2007 12-528-AC-4912-T 01 2008



Note: The two letters with a four digit code allows large companies to have almost unlimited unique employment verification codes for each employee.

**VII. Conclusion:**

By the employer contacting the Social Security Administration to obtain an Employer Verification Code (EVC) is a minimal step in the current employer hiring process and will not be a burden. The action of an employer contacting the Social Security Administration when hiring and terminating an employee, gives the government some regulatory control over illegal alien labor in the workforce. Screening for the use of fraudulent identification and social security numbers and/or multiple use of these will be detected at the Social Security level. It also gives employers a valid tool to verify who is a qualified legal worker when hiring.

This proposed public policy procedure to verify employees allows the State and Federal governments to better control the employer who knowingly hires illegal alien labor by allowing for punitive damages from the State and Federal governments associated with their tax and payroll reporting responsibilities. The State government, through more frequent payroll reporting will detect any conflict with the social security number and Employer Verification Code (EVC) and can alert ICE and the IRS of irregularities and subsequent investigations. As a backup screen, the IRS, as part of its audit duties, will be able to detect employee verification irregularities. The IRS is able to function within its mandate of collecting taxes and not reporting criminal activity to ICE or other agencies. The IRS however, can prosecute under the current rules by disallowing the payroll deduction and fining the employer for interest, penalties and/or incarceration for fraud.