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Migration Policy Institute

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E-Verify:
Analysis and Recommendations
for Reform





Overview of Talk

- **Background on E-Verify**
- **Analysis of the current system**
- **Two sets of recommendations**
 - Short-term reforms to existing program
 - Long-term pilot programs for next generation of E-Verify
- **Legislative/regulatory update**



Before I Begin

- **Acknowledgments**
- **The limits of electronic verification**
- **For more information:**
 - www.migrationpolicy.org/pubs/Verification_paper-071709.pdf
 - www.migrationinformation.org/Feature/display.cfm?ID=726



Background on E-Verify

- **Legislative history**
- **Policy issues**
- **How the system works**
- **Current users**



Background on E-Verify

- **Legislative history**
 - 1986 Immigration Reform and Control Act (IRCA)
 - 1994 US Commission on Immigration Reform report
 - 1996 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)
 - 2003 Basic Pilot Program Extension and Expansion Act



Background on E-Verify

- **Policy issues**
 - Specific response to IRCA's failures
 - Document fraud
 - Discrimination



Background on E-Verify

- **Policy issues**
 - Specific response to IRCA's failures
 - Verification tasks
 - Authentication of identity
 - Verification of work authorization



Background on E-Verify

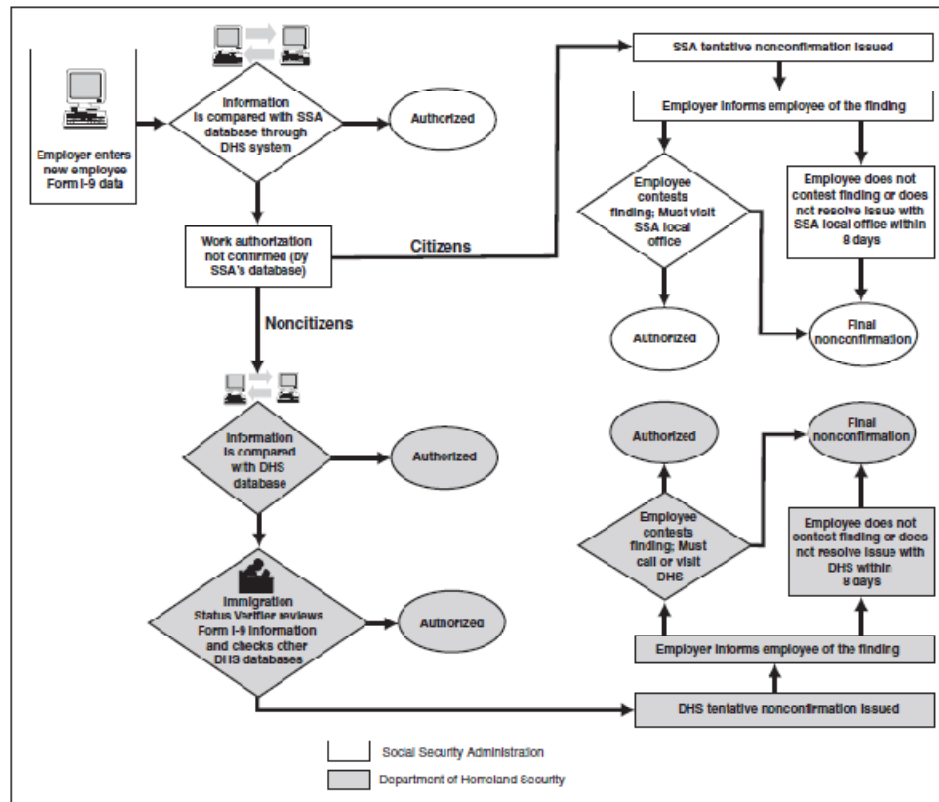
- **Policy issues**
 - Specific response to IRCA's failures
 - Verification tasks
 - Three goals
 - Employer neutrality
 - Protect privacy and worker rights (US citizens)
 - Test and evaluate



Background on E-Verify

- How the system works

Figure 1: E-Verify Program Verification Process



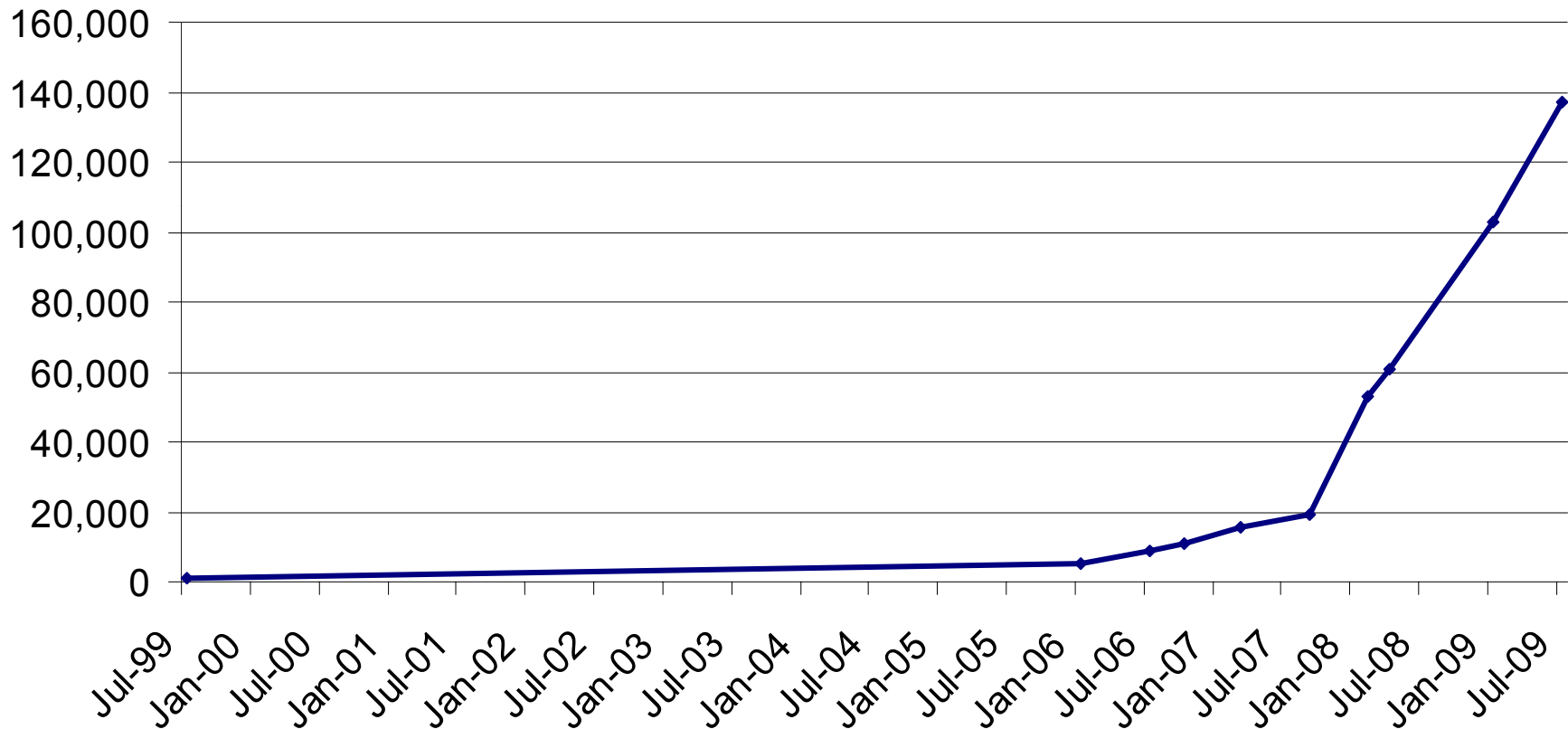
Source: GAO analysis based on USCIS information.

Source: US Government Accountability Office, GAO-08-895T



Background on E-Verify

Registered Basic Pilot/E-Verify Employers



Also see: <http://www.migrationinformation.org/Feature/display.cfm?ID=726>



Analysis of E-Verify

- **Introduction**
- **What E-Verify does well**
- **Limitations of E-Verify**
- **Analysis**



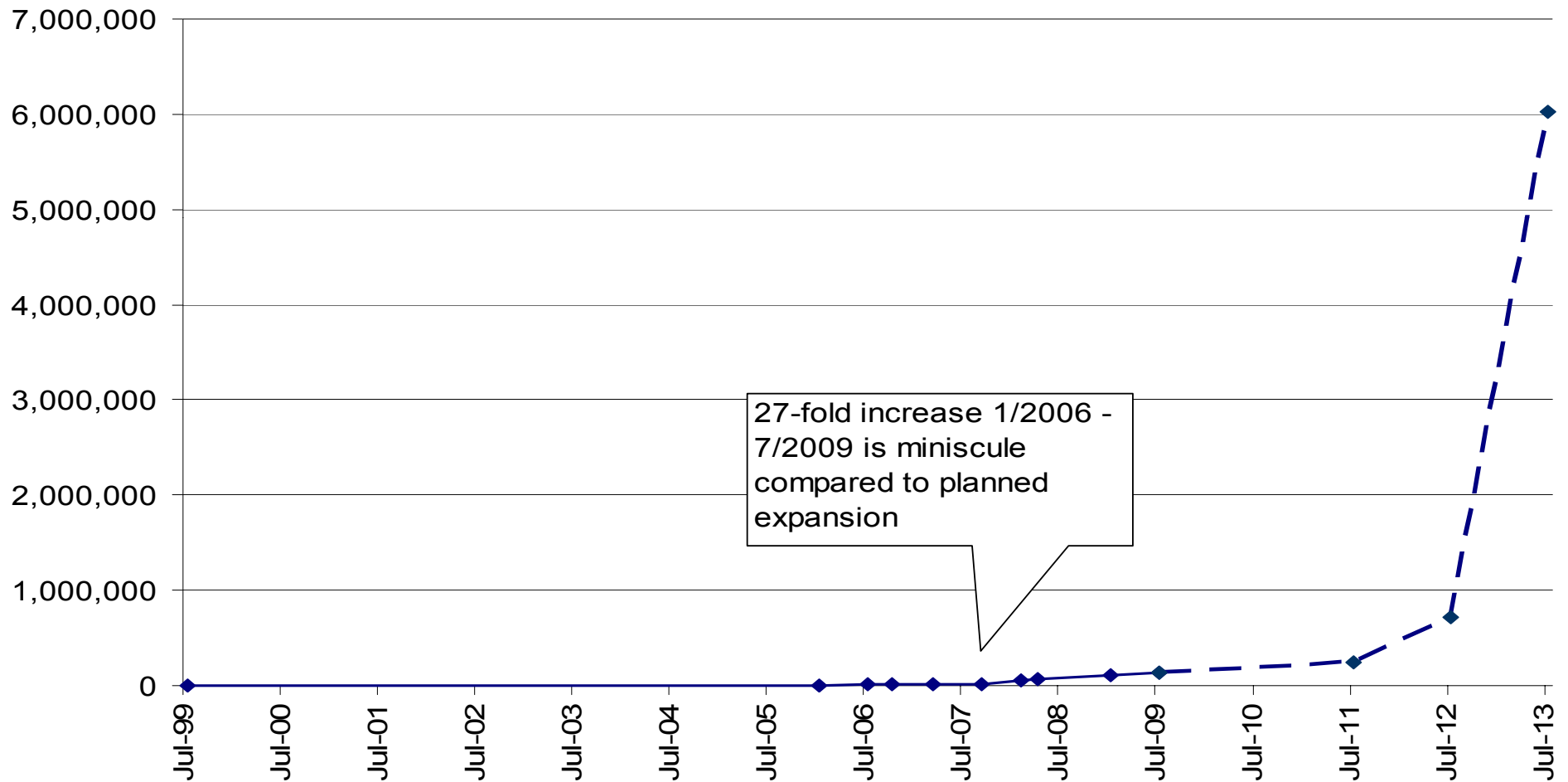
Analysis of E-Verify

- **Introduction**
 - Data limitations
 - Scope of planned expansion



Analysis of E-Verify

Existing and Projected E-Verify Users, 1999-2013





Analysis of E-Verify

- **Introduction**
 - Data limitations
 - Scope of planned expansion
 - Lots of uncertainty!



Analysis of E-Verify

- **What E-Verify does well**
 - Prevents common document fraud
 - Why this matters



Analysis of E-Verify

- **Limitations of E-Verify**
 - Identity fraud
 - Erroneous nonconfirmations
 - Delayed verification
 - Employer misuse and abuse



Analysis of E-Verify

- **Limitations: identity fraud**
 - Why the problem occurs
 - Scope of the problem
 - FTC: 318,000 identity theft complaints
 - Javelin Research and Strategy: 9.9 million cases total
 - No estimate for E-Verify
 - Efforts to correct
 - Projected scope in universal system
 - Increased market
 - Increased access



Analysis of E-Verify

- **Limitations: Erroneous nonconfirmations**
 - Why the problem occurs
 - Scope of the problem
 - Minimum: 0.3%
 - Best guess: about 1%
 - Efforts to correct
 - Projected scope in universal system
 - 1% → 600,000 false nonconfirmations per year
 - Likelihood the error rate could increase, at least initially



Analysis of E-Verify

- **Limitations: delayed response**
 - Why the problem occurs
 - Scope of the problem
 - Average time to tentative nonconfirmation resolution: 39.7 days
 - Efforts to correct
 - Projected scope in universal system



Analysis of E-Verify

- **Limitations: employer misuse and abuse**
 - Why the problem occurs
 - Scope of the problem
 - Westat self-reported data: 9 – 47%
 - AFSC survey
 - Efforts to correct
 - Projected scope in universal system



Analysis of E-Verify

- **Bottom line**
 - Inherent uncertainty in EEVS
 - Authentication of identity
 - Verification of authorization to work
 - E-Verify's "employer-centric" design exacerbates these problems
 - Raises costs to workers
 - Raises costs to employers



Recommendations

- **Short-term improvements**
- **Long-term reforms**



Recommendations

- **Short-term improvements**
 - Prevent erroneous nonconfirmations
 - Prevent employer misuse
 - Better auditing and oversight for enforcement



Recommendations

- **Short-term improvements**
 - Prevent erroneous nonconfirmations
 - Allow workers to correct own records
 - Mechanism for appeal and redress for errors



Recommendations

- **Short-term improvements**
 - Prevent employer misuse
 - Education
 - Oversight
 - Penalties for noncompliance (§274B of INA)



Recommendations

- **Short-term improvements**
 - Better auditing and oversight for enforcement
 - Auditing for misuse/nonuse
 - Office of database accuracy
 - Coordination among enforcement agencies
 - Limited data sharing with IRS/SSA



Recommendations

- **Long-term reforms**
 - Enrollment process
 - Three options (not mutually exclusive)
 - Card-based system
 - PIN self-verification system
 - Biometric scanning



Recommendations

- **Long-term reforms**
 - Enrollment process
 - All workers eventually required to visit USCIS or other government agency
 - Accommodate ~ 22 million citizens without documents
 - Prevent fraudulent enrollments by unauthorized immigrants



Recommendations

- **Long-term reforms**
 - Card-based system
 - Overview
 - Secure card is proof of identity and work authorization
 - Advantages
 - Disadvantages



Recommendations

- **Long-term reforms**
 - Card-based system
 - Overview
 - Advantages
 - Secure card as alternative to E-Verify
 - Expectations for cards
 - Disadvantages



Recommendations

- **Long-term reforms**
 - Card-based system
 - Overview
 - Advantages
 - Disadvantages
 - No fraud-proof card
 - Suspicion of cards
 - Mission creep
 - Photo cards require user judgment



Recommendations

- **Long-term reforms**
 - PIN pre-verification system
 - Overview
 - Worker's record locked during enrollment
 - First stage: Worker uses PIN to check in with system; resolves any data errors and receives confirmation code
 - Second stage: Worker provides employer with confirmation code; employers gets red-light/green-light response
 - Advantages
 - Disadvantages



Recommendations

- **Long-term reforms**
 - PIN pre-verification system
 - Overview
 - Advantages
 - Prevents ID theft
 - Prevents false nonconfirmations
 - Prevents delayed response
 - Limits employer misuse
 - Limits privacy threat
 - Disadvantages



Recommendations

- **Long-term reforms**
 - PIN pre-verification system
 - Overview
 - Advantages
 - Disadvantages
 - Vulnerable to ID sharing
 - Complexity
 - Photo sharing relies on judgment



Recommendations

- **Long-term reforms**
 - Biometric scanning
 - Overview
 - Worker provides biometric during enrollment; biometric stored on card or in database
 - Employer must capture biometric again to authenticate identity at point of hire
 - Advantages
 - Disadvantages



Recommendations

- **Long-term reforms**
 - Biometric scanning
 - Overview
 - Advantages
 - Prevents ID theft and ID sharing
 - Shifts employer judgment to government
 - Disadvantages



Recommendations

- **Long-term reforms**
 - Biometric scanning
 - Overview
 - Advantages
 - Disadvantages
 - Cost increase
 - Technological limitations (false nonconfirmations)
 - Political/philosophical barriers; threat of noncompliance



State of play

- **FAR regulations**
- **Reauthorization**
- **NEVA (H.R.2028)**
- **SAVE (H.R.3308)**
- **Schumer's principles**



Conclusion

- **Recall limits of EEVS; burden will fall on US citizens**
- **Need for comprehensive policy**
- **Likelihood of unintended consequences; should test multiple programs while phasing in new mandates**



**For more information,
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