USCIS Increases Reliance on Web-based Verification Systems

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Over the past year, USCIS has launched two Web-based validation instruments — E-Verify Self Check and VIBE — in an attempt to improve efficiency and safeguard immigration benefits. While Self Check is intended for individuals and VIBE for petitioning employers, together the programs reveal a trend toward harnessing voluntary Web-based tools to promote immigration compliance.

E-Verify Self Check

USCIS recently announced that E-Verify Self Check is now available in both English and Spanish throughout the entire county, including all 50 states, the District of Columbia and the territories of Guam, Puerto Rico, the U.S. Virgin Islands and the Northern Mariana Islands.

E-Verify is an Internet-based government system that requires participating employers to enter the employee data from Form I-9 to be confirmed against the Department of Homeland Security and Social Security Administration records. Until recently, before the introduction of Self Check, E-Verify was only accessible to participating employers as part of the I-9 process.

Self Check allows individuals to check their own eligibility to work under the E-Verify system, affording job applicants a "sneak peak" into the government's data. When using Self Check, job applicants enter the same required identity and work authorization information an employer provides when confirming a new hire through E-Verify, and thus Self Check gives individuals the opportunity to check their own status before making a job application. If there is any type of mismatch with the information from the Department of Homeland Security and the Social Security Administration, Self Check also provides instructions on how individuals may correct their records. It is important to note that Self Check is a voluntary system and employers cannot require employees or applicants to use the program or report their results.

Self Check was originally rolled out on a limited basis in March 2011 for residents of 5 states and the District of Columbia. The program was broadened in August 2011 and, with the most recent announcement, Self Check is now available throughout the country. Since its initial launch, approximately 67,000 people have used the Self Check program and USCIS expects these numbers to grow. In addition, the Obama administration has lent its support to E-Verify and the Self Check program by granting a 9.3 percent increase to the E-Verify budget for fiscal year 2013.

VIBE

On February 15th, USCIS Director Alejandro Mayorkas testified before the House Committee on the Judiciary, Subcommittee on Immigration Policy and Enforcement and listed VIBE, which was first introduced at the beginning of 2011, as one of the agency's significant achievements in enhancing fraud detection.

VIBE (Validation Instrument for Business Enterprises) is a Web-based tool that uses commercially available information from an independent information provider — currently Dun & Bradstreet (D&B) — to validate the business operations of companies and organizations petitioning for authorization to employ foreign workers. While employers are not required to register with D&B, USCIS may issue a Request for Evidence (RFE) or Notice of Intent to Deny (NOID) if petitioner information does not match the information in the VIBE system.

VIBE has been critiqued by many in the business immigration community, as many legitimate and well-established employers have been subject to burdensome RFEs questioning their existence and corporate relationships simply because the employer chose not to list or update its information in D&B. (Of course, some businesses may want to have their information registered with D&B for unrelated business reasons. However, there is no immigration-related requirement that businesses do so.) Additionally, when employers attempt to correct their information by contacting D&B through the company's Web site, they find themselves targets of offers for commercial services and products from D&B.

Perhaps in response to these criticisms, in December 2011 D&B launched a new streamlined process called iUpdate for U.S. government customers. iUpdate allows petitioning employers an opportunity to view and update the information in the VIBE system at no cost. In addition, D&B has specifically agreed to not subject iUpdate users to its standard marketing tactics.

Regardless of whether they utilize iUpdate, petitioners should expect to continue to have to contend with VIBE, as it seems clear that the VIBE system will remain a part of USCIS's adjudicatory process.

Please feel free to contact any member of Proskauer's Immigration Group to discuss whether either of these Web-based systems are appropriate tools for you.