

E-Verify on the fritz likely due to Florida going live on the RIDE Program

Employment Authorized individuals may be receiving inadvertent TNCs and Florida is the newest state to join the Records and Information from DMVs for E-Verify (RIDE) Program.

By [Dawn Lurie](#), Partner Immigration Compliance at 202.469.4963


Over the weekend, U.S. Citizenship and Immigration Services (USCIS) installed updates to the E-Verify system. Something seems to have gone awry as our clients, around the country, have reported irregularities with processing E-Verify queries since early yesterday morning. E-Verify is a web-based, voluntary program that compares an employee's Form I-9 information with the Social Security Administration and Department of Homeland Security databases. E-Verify is considered a best practice by the government in terms of immigration compliance and is part of the Immigration and Customs Enforcement's [IMAGE](#) program. Over the past four years, the E-Verify program has expanded tremendously and become more intuitive and notably easier for employers to use. E-Verify has refined the speed in which it processes queries and has become infinitely more accurate. The program has benefited from an enormous amount of funding directed at improving the quality of resources available to employees and employers, as well as increasing the frequency and accessibility of training provided by [USCIS](#). The [Department of Justice's Office of Special Counsel](#) also has stepped up to offer a suite of resources including role-play videos and targeted E-Verify "Do's and Don'ts". While still susceptible to identity theft, the program continues to be upgraded and includes a photo-matching component for U.S. Passports, Permanent Resident Cards, and Employment Authorization Cards. The decision to enroll in E-Verify should not be made lightly and includes planning and compliance. While the program is "free" significant resources should be dedicated to its implementation and ongoing monitoring.

E-Verify also integrates a pilot component to the program using the Records and Information from Department of Motor Vehicle DMVs for E-Verify (RIDE). RIDE improves the accuracy and strengthens the integrity of the E-Verify system by enabling it, for the first time, to compare driver's license data against state records when determining employees' eligibility to work in the United States. [Mississippi began using the program in June of 2011](#). While the pilot stalled for a lengthy period, the USCIS announced today that **Florida** will be the next state to provide the federal government access to its motor vehicle identification database. With this addition, the driver license number placed into the E-Verify system is reviewed for comparison with the number in the issuing authority's records.

Yesterday's issue seems to stem from the upgrade and will likely be resolved quickly. It appears that the system is still being updated, however, and the installation process is effecting the processing of some employees, resulting in erroneous Social Security Administration Tentative Non-Confirmations (SSA TNC). If an employee receives a SSA TNC, the next step in E-Verify is for the employer to click the "Print Notice" button so the user can review the TNC notice with the employee and the employee can choose whether to contest or not contest the TNC.

The screenshot shows a web interface for the 'Print, Review & Sign TNC Notice' step. At the top, a progress bar indicates the current step is 'Print, Review & Sign TNC Notice', with previous steps being 'Confirm Employee Decision' and 'Refer Employee', and the next step being 'Print, Review & Sign Referral Letter'. Below the progress bar, the title 'Print, Review & Sign TNC Notice' is followed by instructions: 'Review the SSA TNC with the employee. Follow the steps listed below.' A numbered list of five steps is provided. Step 1, 'Print the SSA Tentative Nonconfirmation Notice', is the active step. It contains a form with the title 'Notification to Employee of SSA Tentative Nonconfirmation', a language dropdown menu set to 'English', and a 'Print Notice' button which is circled in red. Step 2 is 'Review the SSA TNC privately with the employee.' Step 3 is 'Have the employee indicate whether he or she will contest the SSA TNC on the SSA Tentative Nonconfirmation Notice.' Step 4 is 'Ensure that you and the employee sign and date the SSA Tentative Nonconfirmation Notice. Indicate that the employee has been notified by selecting the check box below.' This step includes a 'Confirm Employee Notification' section with a checkbox labeled 'I have notified this employee of the TNC.' Step 5 is 'After these steps are complete, click Continue.' At the bottom of the screen, there are three buttons: 'Close Case', 'Save Case and Exit', and 'Continue'.

However, as a result of the updates to E-Verify, when employers click the "Print Notice" button, E-Verify does not generate the SSA TNC notice, but instead provides the following error message:



There is a problem in generating a letter.

An unexpected error occurred in the application. If the problem persists, contact the help desk.

Employee name (first name) is expected as a query parameter.

E-Verify representatives have acknowledged the issue and are working to resolve it. E-Verify recommends that employers close the case that received a SSA TNC, selecting the reason that the *data entered is incorrect*.

Verify Employee Employee Name Case Verification Number View/Print Case Details

Enter Form I-9 Information Verification Results Close Case

Is [redacted] currently employed with this company?
Select yes or no and click **Continue**.

Yes
 No

Back Continue

Enter Form I-9 Information Verification Results Close Case

Select the appropriate statement and click **Continue**.

The employee continues to work for the employer after receiving an Employment Authorized result.

The case is invalid because another case with the same data already exists.

The case is invalid because the data entered is incorrect.

Back Continue

E-Verify is working on fixing the problem and anticipates that all issues should be resolved by today, December 11, 2012. They further recommend re-entering the employee's data into E-Verify today. It is likely that many of these TNCs will be employment authorized once the system is working properly.

For more information on the E-Verify program and immigration compliance, contact Dawn Lurie at 202.469.4963 or Mahsa Aliaskari at 310.228.2280.

The insight and intuitive ability to stay ahead of aggressive enforcement trends is a trademark of Sheppard Mullin's Global Immigration & Compliance attorneys. The importance of working with an experienced team knowledgeable in investigative procedures, policy implementation and the nuances of the law is critical during a reactive situation. Such expertise can also be put to work, proactively, and can save your company time and money. Sheppard Mullin has extensive experience in advising multinational corporations on how to minimize exposure and liability regarding a variety of issues, including Form I-9 and E-Verify employment eligibility verification matters in both the administrative and criminal areas. Offering a multidisciplinary approach and a unique perspective on global compliance planning, we provide immigration counsel with eye towards deterring international corruption and bribery with a representation in Foreign Corrupt Practice Act (FCPA) and Export Administration regulatory matters. Domestically we offer H-1B (Labor Condition Application) audits, and develop overall compliance strategies, compliance programs and we perform internal I-9 compliance inspections. SMRH attorneys have successfully defended businesses involved in large-scale government worksite enforcement actions, I-9 Audits and Department of Labor Wage and Hour investigations. We regularly provide counsel on a variety of compliance-related issues, including penalties for failure to act in accordance with government regulations, IRCA anti-discrimination laws, Office of Special Counsel Investigations, and employers' responsibilities when faced traditional no-match situations as well as more serious workplace identity theft or other alleged misrepresentations made by employees.