Due To Partial Government Shutdown, Immigration Status Check System 'E-Verify' Is Actually Not Verifying

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E-Verify, the federal online program that employers use for checking workers' names, social security numbers and proof of citizenship is offline during the government shutdown because it is not considered an essential service.

When employers go to the website operated by the Department of Homeland Security, visitors see the message "U.S. law requires companies to employ only individuals who may legally work in the United States - either U.S. Citizens, or foreign citizens who have the necessary authorization."

However, scroll down and it also states users cannot "verify employment eligibility" or "view or take action in any case."

As a result of the service being down, chances are now there are employers out there with new hires in limbo status. For example, if Company A hired Employee B prior to the shutdown and Employee B received what is called a Tentative Non-Confirmation message, which is a red flag of sorts, then Company A must wait until the system is back up and the proper period of time for resolving it has been exhausted.

Lynda McKay, Director of Human Resource Consulting at Bagnall Co. in Arizona (where E-verify is mandated) is advising her clients to do what they can to comply with immigration laws. That includes keeping new hires who received a TNC prior to the shutdown on their payroll for the time being.

"So they still have that opportunity. So it's very important to remember to not discriminate and that is what I-9 and truly E-Verify is all about," McKay said. Meanwhile, they can still keep hiring, she said.

E-verify checks are required on all federal contract work, and 17 states require it on some or all other types of employment.

One analyst who supports the check system said it's bad news that it's down due to the shutdown.

"The first problem is that it sends a message that the current administration does not consider E-Verify to be an essential function of the federal government," says Jessica Vaughn with the Center for Immigration Studies, an immigration-restriction think tank."They've shut it down, even though it's actually an automated system."

Roy Beck, president of NumbersUSA, a pro-enforcement organization that also opposes illegal immigration, said "E-Verify exists to ensure every U.S. job goes to an American citizen or to a legal immigrant, to make sure that nobody that's not supposed to work here gets a job. And yet, this program has sort of been thrown out the window this month."

Beck feared it presents a perfect opportunity for those in this country illegally to take advantage of a weakened system.

"It's bad for business because it doesn't ensure those of us who are employers that we've really done what we need to do and it's bad for the American workers because it (has) allowed seven million illegal aliens to get jobs."

Kevin Beckstead, owner of Bailey's Moving and Storage in Colorado, said his company has "slowed down hiring" due to the shutdown. He is meeting with his CFO and corporate attorney to figure out what the next step may be should the shutdown continue. Beckstead also said he believes the I-9 form, the standard employment form requiring documentation, can be gamed.

Asked about the criticism and concern raised from E-Verify not currently working, the federal agency that operates it, U.S. Citizenship and Immigration Services within the Department of Homeland Security, declined to comment.

McKay agreed that this could be a window of opportunity for those on both sides of the hiring relationship to exploit it, but there there is only so much that can be done.

"So employers just have to probably be a little bit more specific and a little bit more scrutinizing over the documents, that they are receiving to verify those new hires," she said.

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