

Small Businesses Say U.S. Background-Check System Has Drawbacks

Government Program to Identify Undocumented Workers Is Costly, Time Consuming, Firms Say

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Chief Financial Officer Daniel VanLoh, center, of Rocket Farm Restaurants, says E-Verify has significantly increased the company's recruiting costs.

Since January, Daniel VanLoh has turned away nine new dishwashers and one line cook from his four Atlanta, Ga., restaurants within days of hiring them.

The reason: Not one was authorized to work in the U.S., according to background checks he ran on the job applicants using a federal verification system, known as E-Verify.

He says he's now struggling to fill six openings, with some job seekers simply walking away after hearing that the company uses the free, Internet-based system to check their immigration status.

To date, Mr. Van Loh's firm, Rocket Farm Restaurants LLC, has used the system to check 180 recruits. "It has significantly increased our recruiting costs," he says. "We spend time and money recruiting and doing background checks on good candidates, and if the E-Verify comes back with a rejection, we have to start the process all over again."

Recruiting dishwashers is the most difficult. The jobs pay only \$8 an hour, or 75 cents more than the federal minimum wage, and they involve a great deal of heavy lifting.

Launched in 1997, E-Verify matches job applicants' Social Security numbers and other identification against a national database kept by U.S. Citizenship and Immigration Services, a federal agency under Homeland Security. Those who return a mismatch are deemed to be unauthorized to work. As of July 20, 467,328 employers nationwide, big and small, were enrolled in the system, according to immigration agency data.

The government's effort to mandate E-Verify's use is part of a broader immigration overhaul by federal lawmakers that could legalize most of the estimated 11 million undocumented immigrants living in the U.S. That has the potential to level the playing field for job applicants and help employers struggling with E-Verify mismatches.

Meanwhile, though, a close look at early E-Verify system users illustrates some of the challenges facing business owners who liked the old way—generally, simply asking job seekers to fill out federal paperwork, known as I-9 forms, and trusting that any proof of identity they provide is legitimate.

Specifically, since using the E-Verify system, many owners of small firms say it has become far more difficult to fill open positions. Others point out that using the system requires some employers to hire extra staff or upgrade computer equipment to manage the online process.

This month, Georgia required small employers to screen applicants with the system, a move that extended existing requirements for larger firms. At least 15 other states, including Arizona, Mississippi and South Carolina, have enacted laws in recent years requiring at least some, if not all, employers to run E-Verify checks on job applicants before hiring them. The laws don't require employers to check existing employees.

Scott Whitehead, who operates an Atlanta landscaping service, began using E-Verify July 1. Over the past three weeks, he says he hasn't found a single authorized worker among more than 50 applicants at his metro area firm, Unlimited Landscaping & Turf Management Inc. "Every immigrant who walks through this door is illegal" according to the online check, says Mr. Whitehead, whose firm has more than 100 employees.

He says the checks are shrinking the pool of applicants he's able to hire. As he struggles to fill openings, existing maintenance workers, most of whom he pays about \$14 an hour, are demanding higher wages.

The system is also bringing anxieties about productivity, he says. To avoid running afoul of the new Georgia law, Mr. Whitehead plans to hire only U.S. citizens who clear the system, even though, in landscaping, he has found that immigrant workers are generally more productive.

For most other employers across the country, the system is strictly voluntary now. But that may change soon. Under the Senate immigration bill passed on June 27, all employers—regardless of size—would be required to run E-Verify checks on new employees and face penalties as high as \$7,500 for each unauthorized worker—and twice as much for a second offense. House lawmakers are expected to take up the issue in a stand-alone bill later this month.

Golden Corral franchisee Billy Sewell says he used to get an average of 25 to 50 job applications a week for positions at each of his 13 restaurants in North Carolina. Since October 2012, when he began using the system as now required by state law, he has received only about 10 applications a week per location. So far, Mr. Sewell has turned away roughly 300 applicants.

"There needs to be better immigration reform because we're not allowed to hire good, valuable people who want to work," says Mr. Sewell, who altogether owns 28 Golden Corral restaurants in six states.

In states where E-Verify isn't required, Mr. Sewell, like other employers, simply fills out the I-9 forms for each applicant. The forms must be completed within three days of hiring a new worker and must list any documents presented by applicants as proof of employment authorization, such as a U.S. passport, a U.S. birth certificate, a green card or a government-issued work permit.

While they aren't filed with any government agency, the forms must be presented to immigration or labor agents in the event of a workplace inspection. Employers can face penalties for hiring unauthorized workers of \$250 to \$2,000 a worker.

Mr. Sewell realizes that under the paper system, he might be hiring some undocumented immigrants, but he doesn't care as long as he's doing what he's required to do under the law.

According to immigration agency guidelines, employers are responsible for ensuring that documents "reasonably appear to be genuine." Mr. Sewell, for one, admits that it can be difficult to tell whether documents are legitimate, though he adds that it's just as hard to ensure that customers are providing real proof that they're old enough to order alcohol.

Correctly filling out the forms—which are signed by the employee—is a "good faith" defense if the worker is found to have used a fake document unless the inspectors can prove an employer knowingly hired an undocumented worker.

In an October survey of 789 restaurant operators, the National Restaurant Association found that 23% use E-Verify, including about a quarter who enrolled as a result of state laws. Of those that hadn't enrolled in the system, 62% said they were small operations lacking human-resources staff to handle the extra work.

In a February survey by the U.S. Citizenship and Immigration Services of 1,351 employers who use E-Verify—80% of which had fewer than 300 workers—85% said they would continue using the system even if they weren't required to under the law.

About a half-dozen business owners of enterprises ranging from restaurants to general contractors, vineyards and high-tech firms said in interviews that they like using the system because it's free, quick and easy.

Florida builder Greg DeJohn says he uses the system voluntarily because he needs to show [Wal-Mart Stores](#) Inc. and other big clients that he takes extra steps to ensure they aren't indirectly supporting illegal labor. "It's a way of showing corporate clients that we're using best practices," he says. "It's a matter of conducting good business."

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