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E-Verify doesn't prevent many companies from hiring undocumented workers

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When federal agents raided dozens of 7-Eleven stores across the country earlier this month and arrested 21 workers suspected of being undocumented immigrants, U.S. Immigration and Customs Enforcement director Tom Homan declared that the highly publicized raids were meant to send a message to employers: “If you are found to be breaking the law, you will be held accountable.”

But after all the smoke from the day's fiery rhetoric cleared, one huge question remained: How did these undocumented immigrants get hired in the first place?

At a time when the national debate over immigration is at its tipping point, questions have begun to resurface about E-Verify — a 21-year-old electronic program designed to filter out undocumented immigrants who apply for jobs — leaving many Americans wondering how millions of them slip through the system.

After all, credit card companies nearly seamlessly verify tens of millions of 16-digit numbers every day with a tiny little machine that easily fits on the counter of nearly every store in America. What could be so hard about verifying that every job applicant has a valid Social Security number or “alien registration number” that indicates that the jobseeker is a legal U.S. resident even if he or she is not yet a citizen.

But many immigration policy experts say E-Verify is not what it seems. They contend it's essentially a political fig leaf, with so many significant flaws and loopholes that it allows employers to knowingly hire undocumented workers with little repercussions for doing so.

Only 3,000 of hundreds of thousands of companies enrolled in E-Verify were audited during the eight years of the Obama administration, said Daniel Costa, director of immigration law and policy research for the Economic Policy Institute, a pro-labor think tank based in Washington, D.C.

“They continue to be able to hire undocumented workers without having to verify anything with the government,” Costa said.

With such a low chance of being audited, Costa said, E-Verify is “a wink and a nod from the government to employers” that lets them continue to hire undocumented workers.

An estimated 763,500 employers were taking part in E-verify as of Jan. 16, according to U.S. Citizenship and Immigration Services, which oversees the program.

That sounds like a lot, but it's only a tiny percentage of the more than 18 million businesses in the U.S.

The reason for the low participation rate is that the program is voluntary in most states. It's mandatory only for businesses that have been caught hiring undocumented immigrants.

In the last fiscal year, 98.88 percent of the employees entered into the E-Verify system were cleared to work, requiring no employee or employer action, according to USCIS.

Calls for "mandatory E-Verify" — particularly among immigration hardliners in the Republican Party — could be heard in the halls of Congress last week as legislators unsuccessfully tried to reach an immigration deal that would allow 800,000 young undocumented immigrants to stay in the U.S.

Polls have shown that more than two-thirds of the American public believe the E-Verify should be mandatory.

Capitalizing on that sentiment, Rep. Lamar Smith, a Texas Republican who sits on the House Judiciary and Homeland Security committees, recently introduced a measure to require all employers to use the program. "By expanding the E-Verify system to all U.S. employers, this bill will ensure that jobs only go to legal workers," Smith said.

But Alex Nowrasteh, an immigration policy analyst at the Cato Institute's Center for Global Liberty and Prosperity, a libertarian think-tank in Washington, D.C., said E-Verify simply checks documents that are submitted and accepts those documents even if they are fraudulent — which is the way most undocumented immigrants secure employment.

The Social Security Administration estimated that 1.8 million immigrants were working with fake or stolen Social Security cards in 2010 — and that number is expected to reach 3.4 million by 2040.

Even when E-verify is mandated, Nowrasteh said, "a large portion of employers still don't use it for new hires" because the government audits are so minimal.

"People think this is going to be the way that illegal immigrants can't work in the U.S.," he said. "That is fantasy."

So why does the program exist?

Nowrasteh contends it's because E-Verify allows politicians to claim the U.S. is being tough on immigration without actually having to be tough.

"Nobody wants to shut down businesses. That's expensive politically and economically," he said. "It's much easier to have a system that doesn't work (but which) sounds like a silver bullet."

But some groups trying to put more restrictions of immigration say E-Verify isn't as flawed as critics make it seem and have called on federal officials to expand the program.

The idea that somebody could put down a false or stolen Social Security number and get hired by an employer that uses E-Verify is "impossible" to believe, said Joe Guzzardi, spokesman for Progressives for Immigration Reform, an organization in Washington, D.C., that says it's

fighting for more immigration restrictions on behalf of U.S. workers. The group wants to make E-Verify mandatory.

U.S. immigration authorities say they've gradually improved the system over the years to fix some of its flaws and to close loopholes.

Sharon Rummery, a spokeswoman for USCIS, said when it became known that people could get around E-Verify by taking on stolen identities, the agency in 2007 added a "photo tool" feature that allows employers to enter new hires into the system to check the photo on the identification card they used and compare it to the photo of the person who was originally granted the green card or work authorization document,

Under E-Verify, once employees provide documents such as passports, Social Security cards and driver's licenses, employers use a device that looks a lot like the credit-card machines that stores use. A software program then runs the information on the documents through U.S. Department of Homeland Security and Social Security Administration databases to confirm whether the job applicant is here legally.

If the information clears the system, the employer will receive an "Employment Authorized" message almost immediately. If the job applicant isn't able to work in the U.S., the employer will receive a "tentative non-confirmation" message, according to USCIS.

The employer is then required to notify the employee, who is given a brief window of time to fix the issue. Those who are unable to provide documentation are not allowed to work.

Companies that don't use E-Verify require jobseekers to fill out old-fashioned forms to check work eligibility. The employers then must certify that the documents provided by the applicant appear to be genuine.

Rep. Zoe Lofgren, D-San Jose and the ranking Democrat on the House's Immigration and Border Security Subcommittee, said E-Verify has a fairly high accuracy rate, but the underlying problem is the country's "completely broken" immigration system.

She said employers may now have a reliable way to check if their workers are in the U.S. legally, but they know that they need those same workers to keep their businesses afloat.

"You go into the fields in Salinas and you have agricultural workers picking the crops. You could use E-Verify and find out that half of them or more are undocumented," Lofgren added. "So then who picks the crops? That's the problem."

E-Verify by the numbers

To confirm a job applicant's eligibility to work in the U.S., the E-Verify program compares information provided by a job applicant with data in Department of Homeland Security and Social Security Administration computers.

10.5 million – Number of queries run through the E-Verify system so far in the 2018 fiscal year, which began Oct 1.

763,500 – Employers registered for E-Verify as of Jan. 16.

2.5 million — Number of hiring sites represented by E-Verify

1,316 — Average number of employers who have registered for the program weekly so far in fiscal 2018.

Source: U.S. Citizenship and Immigration Services.