



May 24, 2010

Executive and County Council Members
Whatcom County
311 Grand Avenue, Suite 105
Bellingham, WA 98225

Re: Proposed E-Verify Pilot Project

Dear Executive Kremen and Members of the Whatcom County Council:

AMERICAN CIVIL
LIBERTIES UNION
OF WASHINGTON
705 2ND AVENUE, 3RD FL.
SEATTLE, WA 98104
T/206.624.2184
WWW.ACLU-WA.ORG

JESSE WING
BOARD PRESIDENT

KATHLEEN TAYLOR
EXECUTIVE DIRECTOR

I write on behalf of the American Civil Liberties Union of Washington. We are a statewide, non-partisan, non-profit organization with over 20,000 members, dedicated to the preservation and defense of constitutional and civil liberties. We understand that the Whatcom County Council is considering implementing a pilot program requiring Whatcom County and its contractors to use E-Verify when hiring new employees. The E-Verify system is seriously flawed, and its use would harm Whatcom County, its residents, and its businesses without meaningfully reducing employment of unauthorized workers. We therefore urge the Council to reject the proposed pilot project.

E-Verify will deny employment opportunities to people who have the legal right to work in this country. The Social Security Administration, whose database contains most of the information relied upon by E-Verify, has estimated that its records contain nearly 18 million errors that would cause E-Verify to return incorrect results.¹ Even a small error such as a typo in a name or a birth date can cause E-Verify to fail, as can information that has become outdated due to a change in immigration status or even a simple name change after marriage. Identity-theft victims could be left suffering not only from the direct effects of the crime but also from lost job opportunities. Because the E-Verify system cannot alter these records, changes to E-Verify itself cannot address these flaws. And though these failings affect all newly hired employees, they have a hugely disproportionate impact on naturalized citizens and authorized foreign-born workers.

In cases like these, lawful workers must undertake a time-consuming and burdensome process in order to fix errors in the government databases. Employees who need to correct inaccurate Social Security information, for example, must go to a Social Security office in person to try to resolve the problem. These visits can take hours,

¹ Social Security Administration, Office of the Inspector General, *Accuracy of the Social Security Administration's Numident File*, Congressional Response Report A-08-06-26100, <http://www.ssa.gov/oig/ADOBEPDF/A-08-06-26100.pdf>, page 5 (December 2006).

and one visit may not be enough. People will be forced to miss work in order to go to the government office during business hours, which is just as bad for businesses as it is for employees. And in these difficult economic times, it makes little sense to pile more work on to government agencies that are already underfunded and overstressed.

E-Verify burdens businesses in other ways, too. Companies must train their personnel to use E-Verify, and they must devote resources to administering the program on a continuing basis. Employers who want to help their employees correct errors in the government's data face substantial costs in doing so. For example, Intel, which has used E-Verify since 2008, described its efforts to correct government errors as a "sobering" experience. E-Verify incorrectly identified over 12% of Intel's new hires as ineligible for work, even though *every single one* was later verified to be work-eligible. It sometimes required hours of effort by Intel representatives before E-Verify would clear an eligible employee, even if the employee was a U.S. citizen with a valid passport and birth certificate. Intel noted that this process cost it a significant amount of time, money, and lost productivity. Whatcom County should not subject its businesses to these kinds of needless costs.

Finally, E-Verify does not even fulfill its basic purpose of preventing the employment of unauthorized workers. A 2009 report commissioned by the Department of Homeland Security estimated that E-Verify fails to identify 54% of ineligible workers. Federal law already requires businesses not to hire unauthorized workers; requiring them to use E-Verify would simply force them to comply by using one particular method—a method that is severely flawed. And even when E-Verify properly identifies employees who are ineligible to work, they will likely find off-the-books employment rather than leave Whatcom County—a problem that E-Verify does not address at all. Therefore, even if E-Verify did not impose substantial burdens on employers and lawful workers, it would not serve Whatcom County's interests because it simply doesn't work.

The Council's concern for the plight of Whatcom County's workers is entirely appropriate, especially in these difficult economic times. But E-Verify is not the answer. It relies on seriously flawed data, and it will significantly burden businesses and lawful workers without effectively deterring unlawful employment. E-Verify is bad for Whatcom County. We urge the Council not to compel its use.

Sincerely,

Shankar Narayan
Legislative Director