

Download Your E-Verify Records Before They Are Purged

By Roy Maurer^[1] Dec 14, 2017

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As of March 1, 2018, employers won't have access to E-Verify records that were created on or before Dec. 31, 2007.

The E-Verify electronic employment eligibility verification system will delete data that is more than 10 years old on an annual basis, U.S. Citizenship and Immigration Services (USCIS) announced in 2014.

[SHRM members-only toolkit: Complying with I-9 and E-Verify Requirements^[2]]

This process will continue in subsequent years. For example, in 2019, USCIS will dispose of records created on or prior to Dec. 31, 2008. The data purge is being conducted to comply with the National Archives and Records Administration's retention and disposal schedule to minimize security and privacy risks associated with retaining personally identifiable information.

Employers should take measures to archive their data, said Kevin Lashus, an attorney with FisherBroyles in Austin, Texas.

USCIS has created a Historic Records Report that users can download and save for archival purposes. The report contains information about each E-Verify case that will be purged. However, this report will only be available through Feb. 28, 2018, so users should download the report before then^[3].

USCIS recommends that employers annotate Forms I-9 with the E-Verify case verification number and retain the Historic Records Report with the corresponding forms. The agency itself will retain E-Verify records associated with any current ongoing investigations, and employers should prepare for the possibility of an audit, Lashus said.

An employer that must undergo an I-9 audit or that finds itself under investigation in the future "can claim as an affirmative defense that it successfully received a 'work authorized' result for a new hire who is now identified as unauthorized. Once USCIS has disposed of the E-Verify records, the employer has only its own archives to support its defense," Lashus said.

Employers should consider seeking guidance from counsel on downloading the Historic Records Report from E-Verify and should plan on doing so at the end of each calendar year, he said.

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