

February 4, 2009

The Honorable Harry Reid
Majority Leader
U.S. Senate
S-221 Capitol Building
Washington, D.C. 20510-7010

The Honorable Mitch McConnell
Minority Leader
U.S. Senate
S-230 Capitol Building
Washington, D.C. 20510-7020

Dear Majority Leader Reid and Minority Leader McConnell:

We, the undersigned, support an efficient, reliable, accurate electronic federal employment verification system. The current pilot program, E-Verify, is set to expire in March 2009. We are pleased to see an extension of the E-Verify program included in the House-passed version of the stimulus bill, the American Recovery and Reinvestment Act. The legislation authorizes an extension of the current E-Verify program for five years and includes adequate advance funding to the Social Security Administration (SSA) so that the agency can meet its responsibilities under the verification program.

We support this temporary extension of the E-Verify program to allow all stakeholders the time required to craft a verification system that works fairly and effectively for employers and employees alike. Moreover, we encourage the Senate to follow suit and provide a temporary extension of the E-Verify program in its version of the stimulus legislation.

We are opposed, however, to any amendment that may be offered to the Senate stimulus bill that would require organizations as a condition of receiving federal contract money, to participate in the E-Verify program.

During the 110th Congress, extensive hearings were held on E-Verify in the House and Senate that exposed serious shortcomings in the program. Democrats and Republicans alike criticized E-Verify as an ineffective deterrent to unauthorized employment. In addition, we believe requiring entities that receive federal funding to participate in the E-Verify program is ill-advised for the following reasons:

- **Impact on "Shovel Ready" Projects** – One of the stated purposes of the stimulus package is to inject money into state and local infrastructure projects that are ready for immediate implementation. Many state and local governments and other organizations that would implement these projects and receive federal funds, are not currently participating in the E-Verify program. We know from information provided at Congressional hearings, the history of states that have required participation of employers in the E-Verify system, and the experience of large employers that have voluntarily elected to participate in E-Verify that it can take up to 18 months for employers to be fully operational in the program. Thus enrollment in E-Verify as a

condition of receiving federal money could take a considerable period and thus significantly delay these "shovel ready" projects.

- **Massive Influx of New Employers into the E-Verify Program** – Eleven years after authorization, only 100,000 out of 7 million U.S. employers are currently enrolled in the E-Verify program. Requiring federal contractors and organizations that receive federal stimulus money to immediately enroll in the E-Verify could have a major impact on the program, one that we are not confident the federal government is able to accommodate at this time.
- **Impact on State and Local Contracting Requirements** – Requiring state and local governments to enroll in this system and in turn requiring their subcontractors to participate in E-Verify as a condition of working on a local project, would force most states and localities to extensively modify their current procurement practices and policies. This additional step in the state and local contracting process would further impede stimulus funding from being infused into projects immediately.
- **Employers are Already Required to Verify Employment Eligibility** - E-Verify is a means of, but it is not a substitute for, other employment verification requirements. Consistent with federal and state requirements, employers are required to verify the work eligibility of their employees through I-9 compliance and other means. This will help ensure that we speed the creation of jobs for hardworking Americans and legal residents.

Finally, now is not the time to add further confusion to the employment verification process. Two employment verification-related regulations, the Social Security No-Match rule and the Federal Contractor E-Verify rule are being challenged in court, and implementation of the new Form I-9 was delayed this week. A new provision requiring stimulus recipients to use the E-Verify program would unnecessarily complicate employers' efforts to balance their legal responsibilities to verify work authorization while not discriminating against legal employees.

We appreciate your attention to this matter and look forward to working with you to craft comprehensive solutions to the employment verification system.

Sincerely,

American Council on International Personnel
Association of American Universities
Associated General Contractors
College and University Professional Association for Human Resources
HR Policy Association
National Association of Manufacturers
Society for Human Resource Management