AMERICAN IMMIGRATION LAWYERS ASSOCIATION

August 7, 2015

Laura Dawkins
Chief, USCIS, Office of Policy and Strategy,
Regulatory Coordination Division
20 Massachusetts Avenue NW
Washington, DC 20529–2140

Re: E-Verify Program; Revision of a Currently Approved Collection
Submitted Via: www.regulations.gov
Docket ID: USCIS–2007–0023
OMB Control No.: 1615-0092

Dear Ms. Dawkins:

The American Immigration Lawyers Association (AILA) submits the following comments in response to the notice of revisions to the E-Verify Program published in the Federal Register on June 8, 2015.[1]

Founded in 1946, AILA is a voluntary bar association of more than 14,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. AILA's mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. AILA presents these comments to note significant legal and practical concerns with the proposed changes to the E-Verify program.

I. The Proposed Changes to the E-Verify Program are Not Authorized by the Statute.

As noted in the proposed E-Verify Memorandum of Understanding (MOU) and the supporting statement, USCIS seeks to mandate E-Verify employers to reverify the work eligibility of all employees with expiring work authorization. However, there is no statutory authority to support this change. The E-Verify program, initially named the Basic Pilot Program, is authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA).[2] Relevant provisions of IIRIRA Section 403 state:

[1] 80 Fed. Reg. 32408 (June 8, 2015).
[2] Division C of Pub. L. 104-208, 110 Stat. 309 (Sept. 30, 1996).

> (a) BASIC PILOT PROGRAM. A person or other entity that elects to participate in the E-Verify program described in this subsection agrees to conform to the following procedures in the case of *the hiring* (or recruitment or referral) for employment in the United States of each individual covered by the election;
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> . . .
>
> (3) SEEKING CONFIRMATION.—
>
> (A) IN GENERAL.—The person or other entity shall make an inquiry…using the confirmation system to seek confirmation of the identity and employment eligibility of an individual, by not later than the end of 3 working days (as specified by the Secretary of Homeland Security) after the date of *hiring* (or recruitment or referral as the case may be).[3]

Therefore, the statute permits E-Verify employers to verify the employment authorization of potential employees only in the context of the "hiring" and "recruitment and referral" processes. The statute does not authorize DHS to mandate the use of E-Verify for purposes of reverification which falls outside the scope of the "hiring" process.

One of the key benefits of the E-Verify program is the legal protections accorded to employers for actions taken in good faith reliance on E-Verify results. For example, E-Verify employers are provided a rebuttable presumption that there has been no violation of INA §274A(a)(1)(A) (knowingly hiring an unauthorized worker) if the employee's identity and employment eligibility has been confirmed by the system.[4] However, the statute clearly provides this protection only in the hiring context and only if the employer confirms both the identity and employment eligibility of the new hire. When reverifying an employee, the employer does not reverify identity.[5] In sum, DHS cannot require employers to use the system to reverify because the statute providing legal authority for the program limits its use and associated protections to the hiring process.

II. Full Notice and Comment Rulemaking Is Necessary to Implement the Proposed Changes to E-Verify.

The proposed changes to E-Verify, and in particular, the reverification provisions, would significantly change the requirements and burdens placed on E-Verify employers and thus constitute a legislative rule under section 553 of the Administrative Procedure Act (APA). The

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[3] Emphasis added. *See also* IIRIRA § 402(c)(2)(A) regarding the scope of an election to participate in E-Verify or one of the other pilot programs authorized by the statute:

> IN GENERAL.— Subject to paragraph (3), any electing person or other entity may provide that the election under subsection (a) shall apply (during the period in which the election is in effect)—
> (i) To all its *hiring* (and all recruitment and referral) in the State (or States) in which the pilot program is operating…(emphasis added).

[4] *See* IIRIRA § 402(b)(1).

[5] "If a person or other entity … obtains confirmation of identity and employment eligibility in compliance with the terms and conditions of the program with respect to the hiring (or recruitment or referral) of an individual for employment in the United States the person or other entity has established a rebuttable presumption that the person or entity has not violated section 274A(a)(1)(A)…."

agency instead seeks to expand the E-Verify program in the form of a revision to an existing collection of information under the PRA. Regardless of how the agency characterizes it, the proposal to mandate reverification of all employees with expiring work authorization would legally bind E-Verify employers to a new procedure. Changes such as this require notice and comment rulemaking before they can be lawfully implemented.[6] A PRA notice, and particularly one with the flaws discussed *infra*, is a legally insufficient process for implementing a rule with binding future effects.

Full rulemaking on the reverification provisions is also warranted in light of a 2013 congressionally mandated report that found significant problems with the initial verification of temporary workers through E-Verify, the very employees whose employment authorization would be subject to continuous reverification. The 2013 Westat Report on E-Verify identified nonimmigrant students and exchange visitors as the least reliable subject queries with a 24 and 19 percent failure rate, respectively.[7] As a result of the Westat Report, it is easy to conclude that the employers of lawful temporary workers would be directly and adversely affected by the reverification provisions.

III. Amendments to the E-Verify Requirements for Federal Contractors Require FAR Rulemaking.

Rulemaking is also required to the extent that these changes would be applied to federal contractors. DHS cannot unilaterally impose E-Verify changes on federal contractors by revising the MOU. Instead, any such changes that impact federal contractors, and particularly, the reverification provisions, must be made through rulemaking under the Federal Acquisition Regulation (FAR). For employers using the program in accordance with requirements contained in existing federal contracts, any amendments must be negotiated with the federal agency that awarded the contract.

The FAR final rule requires federal contractors to use E-Verify to verify the employment eligibility of all persons hired during a contract term, as well as current employees who perform work under a federal contract within the United States. The FAR E-Verify regulations were based on the 2008 Executive Order 12989, which directed DOD, GSA and NASA to implement E-Verify through amendments to the FAR. The three agencies published a notice of proposed rulemaking[8] and the final rule contained a phase-in period.[9] The final rule amending the FAR sets forth exactly which newly hired and current employees must be confirmed through E-Verify and the specific timeframes for doing so. Additionally, under the FAR final rule, the regulatory E-Verify requirements must be inserted into the performance terms of all federal contracts impacted by the rules requirements.[10]

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[6] 5 USC §§551 and 553.
[7] Westat, Evaluation of the Accuracy of E-Verify Findings p. xvi (2013).
[8] 73 Fed. Reg. 33374 (June 12, 2008).
[9] 73 Fed. Reg. 67651 (Nov. 14, 2008), amending the Federal Acquisition Regulation (FAR) at 48 CFR Parts 2, 22, and 52; 74 Fed. Reg. 17793 (Apr. 17, 2009); 74 Fed. Reg. 26981 (June 5, 2009).
[10] 48 CFR §§22.1803, 52.222-54.

The FAR currently does not allow a federal contractor to "*perform additional employment verification* using E-Verify for any employee [w]hose employment eligibility was previously verified by the [c]ontractor through the E-Verify program" (emphasis added).[11] The proposed change to the MOU would affect FAR contractors in a significant way by requiring reverification of current employees with temporary employment authorization. Because the E-Verify obligations of federal contractors are already set forth in the FAR, an amendment to the FAR would be required to impose these significant new burdens. The PRA revision does not provide adequate notice to FAR contractors of new MOU provisions that would become performance requirements under existing federal contracts or subcontracts.[12] As such, these changes must be implemented by amending the FAR through the full notice and comment process. Furthermore, under federal contract law, DHS cannot unilaterally change the terms of existing federal contracts that have already been awarded.[13] Thus, even if the FAR were properly amended to include the proposed reverification requirement, the change could not be unilaterally imposed on existing contracts.[14]

IV. The Paperwork Reduction Act Notice Containing the E-Verify Changes Is Procedurally and Substantively Flawed.

a. DHS Failed to Provide the Public with the Required 60-Day Period to Comment.

The PRA notice was published in the Federal Register on June 8, 2015, and indicates that the public has 60 days to comment with an August 7, 2015, due date.[15] However, the supporting statement describing the revisions was not actually made available to the public until June 11, 2015, three days later.[16] The supporting statement is important in that it gives notice to the public regarding the proposed changes, the rationale for the changes, and the estimated costs associated with the changes. The supporting statement is critical to public understanding of the changes and a necessary prerequisite to the submission of informed comments. Thus, the public has not been provided with a full 60 day period to review and comment on these proposed changes, which is in violation of OMB requirements.[17]

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[11] 48 CFR §52.222-54. The E-Verify MOU at Article II B (2)(g) reflects this restriction in the FAR as it states "[t]he employer agrees not to require a second verification using E-Verify of any assigned employee who has previously been verified as a newly hired employee under this MOU or to authorize verification of any existing employee by any Employer that is not a Federal contractor…"

[12] Proposed MOU, Article II B (3) p. 7.

[13] *See General Dynamics Corp. v. U.S.*, 47 Fed. Cl. 514, 544-547 (2000); *United States v. Winstar Corp.*, 518 U.S. 839 (1996).

[14] 48 CFR §1.108(d)(3) (*providing* that contracting officers have the discretion to include FAR changes in existing contracts but only with "appropriate consideration"). Interestingly this FAR clause and requirement was recognized and cited in the effective date section of the final FAR E-Verify rule and specifically stated that in certain cases contracting officers should modify on a bilateral basis certain existing federal contracts to include the E-Verify requirement. To impose the new proposed E-Verify requirement on existing contracts would require similar bilateral negotiations between the relevant agency contracting officers and the contractors holding the specific contracts.

[15] 80 Fed. Reg. 32408 (June 8, 2015).

[16] *See* the list of documents available for review in the docket for the E-Verify information collection at www.regulations.gov.

[17] *See* 5 CFR §1320.8(d)(1).

b. The Supporting Statement Does Not Provide the Statutory or Regulatory Authority for the Proposed Revision.

A key statutory purpose of the PRA is to minimize burdens on the public, avoid duplication in information collection, provide useful information to the public, and support the performance of the agency's mission. However, the 60-day notice is insufficient because the agency failed to identify the statutory or regulatory authority for the proposed revision. Page 1 of the supporting statement states:

> Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

DHS failed to provide the statutory or regulatory authority mandating the expansion of E-Verify to include reverification of existing employees with temporary employment authorization. Instead, DHS explains on page 6:

> For technical and programmatic reasons, E-Verify has not, to date, included an electronic reverification process as a complement to the I-9 reverification requirement. E-Verify system upgrades and extensive experience with E-Verify administration now permit USCIS to expand electronic verification to reverification processes in the context of expiring temporary work authorization. **Electronic reverification is not prohibited by the E-Verify statute or any other law**, and logically matches the reverification process long-established under the Form I-9 regulations. (emphasis added)

We disagree with DHS's position that reverification is not prohibited by the E-Verify statute. As explained above, the E-Verify system is statutorily limited to the verification of potential employees in the "hiring" process. DHS's statement is nothing more than an operational narrative that deflects the fundamental question of statutory authority. Without a statement of statutory authority, the Office of Information and Regulatory Affairs (OIRA) has good cause to disapprove the collection expansion. No such authority permits this E-Verify expansion, particularly in the case of the electronic reverification proposal.

c. The Supporting Documents Did Not Clearly Reflect All Proposed Revisions to the MOU and Five MOUs Were Omitted from the Notice.

The PRA notice directs stakeholders to the Federal eRulemaking Portal site for the docket associated with this information collection. The notice and the documents contained within the docket lack sufficient detail and content.[18] Specifically, the reverification requirements under the proposed MOU are inadequate, vague, and incompletely described. For example, while Article II, clause 14 of the MOU makes reference to reverification tentative non-confirmation (TNC)

[18] www.regulations.gov , USCIS–2007–0023.

procedures, Article III is silent on the subject. In addition, the final non-confirmation (FNC) section at Article II, clause 16, and the referral sections to SSA and DHS in Article III are also silent with regard to reverification. This lack of detail means that E-Verify employers, particularly FAR contractors for whom the proposed MOU clauses would become a performance requirement under their existing federal contracts or subcontracts, are without adequate notice of the proposed changes.[19]

It is unfair and unreasonable to expect participating employers and stakeholders to identify the proposed changes, consider their impact, and comment on the changes if details are missing and the changes are not clearly identified. Thus, the notice provided is insufficient, and the public should be given an opportunity to consider a detailed and complete proposed MOU with clearly marked changes.

Additionally, USCIS has inexplicably failed to make available to the public, proposed changes to five other MOUs which are integral to the E-Verify Program. On February 27, 2013, in conjunction with proposed revisions to the E-Verify Program, USCIS stressed the importance of the MOU as the document which "sets forth the agreement between DHS and the employer and provides specific terms and conditions governing the rights and responsibilities of all parties involved."[20] Because of the diversity of rules and requirements pertaining to different E-Verify user groups, USCIS created six different types of MOUs: (1) The Employer MOU; (2) The E-Verify Employer Agent MOU; (3) The Employer Agent Client MOU; (4) The Web Services Employer MOU; (5) The Web Services E-Verify Employer Agent MOU; and (6) The Web Services E-Verify Employer Agent Client MOU.[21] Moreover, USCIS emphasized the importance of keeping all MOUs up to date. However, the current PRA notice only includes proposed revisions to the E-Verify Employer MOU and fails to provide proposed revisions to any of the five other MOUs. Without publication of proposed changes to all six of the MOUs, the PRA notice fails to provide legally sufficient notice to the public and should not move forward.

d. USCIS Failed to Provide the Necessary Justification for Imposing Reverification Burdens on E-Verify Employers.

USCIS is proposing that all E-Verify employers reverify employees with expiring work authorization. Although this would impose substantial new burdens and obligations on E-Verify employers, the supporting statement provides no substantive policy justification for the change, stating only that requiring electronic reverification will "align E-Verify with Form I-9" and will "logically match the reverification process long-established under the Form I-9 regulations."[22]

In this regard, the supporting statement is deficient as it fails to explain how the proposed changes would benefit E-Verify employers or how it is necessary for the proper performance of

[19] MOU Article II B (3) p. 7.
[20] *Available at* www.reginfo.gov, OMB 1615-0092, ICR Ref. No. 201303-1615-202 (Aug. 15, 2013).
[21] *Id.*
[22] *See* E-Verify Program Supporting Statement at 5-6 (June 11, 2015).

the functions of the agency as required under PRA regulations.[23] The failure to provide a policy justification deprives the public of the opportunity to meaningfully assess the costs and benefits of the proposed changes, which represent a substantial departure from the program mission disallowing verification of employees hired prior to the date of E-Verify enrollment. Moreover, as discussed below, the proposed reverification process is not logically matched to the Form I-9 reverification process as the supporting statement claims. Because USCIS has failed to provide any justification for the proposed change and has failed to give the public the opportunity to review and comment on the justification, the changes should not move forward.

e. USCIS Does Not Adequately Explain How it Has Allocated Resources for the Efficient and Effective Management and Use of the Information to be Collected.

Before establishing a collection of information, the requesting agency must demonstrate its functional necessity and practical utility.[24] To this end, OIRA makes the final determination as to whether the demand for information meets ten statutory criteria before the collection may be imposed, one of which is that the information collection: "(H) has been developed by an office that has planned and allocated resources for the efficient and effective management and use of the information to be collected." The PRA notice does not contain sufficient information to assess whether the agency has planned or allocated resources for the efficient and effective management and use of the proposed collection. The brevity of the proposal and its lack of detail leads to the reasonable conclusion that the agency has not adequately planned in this regard.

V. The Reverification Proposal Places an Impermissible Burden on Employers.

a. Reverification Records are Already Available to the Agency.

Since 1987, U.S. employers have been required to verify the identity and employment authorization of new employees on Form I-9. This process includes the reverification of employment authorization documents where an expiration date is listed in Section 3 of the I-9. USCIS regulations require that reverification occur "not later than the date work authorization expires."[25] The regulation also states "(I)n order to reverify on the Form I-9, the employee or referred individual must present a document that either shows continuing employment eligibility or is a new grant of work authorization."

The 1986 IRCA amendments require employers to retain I-9s for current employees and set forth the duty to present I-9s to designated federal agencies with a 72 hour notice. Employers are permitted to use and retain electronic versions of the Form I-9 and must, within the prescribed notice period, provide the agency with that electronic information.[26] Therefore, there is already statutorily mandated recordkeeping of reverification information, and DHS has access to those

[23] 5 CFR §1320.
[24] 44 USC §§3501 – 3520, 3503(b) (1995).
[25] 8 CFR §274a.2(b)(1)(vii).
[26] 8 CFR §274a.2(b)(2)(ii).

records. An additional electronic methodology for reverification is unnecessarily duplicative and places an additional and unjustified burden on E-Verify employers.

b. The Reverification Proposal Places Added Recordkeeping Burdens on the Employer.

Under current regulations, the employer must reverify on Form I-9 not later than the date work authorization expires. This allows the employee who receives a new or extended employment authorization document to bring it to the employer in advance of the expiration date of the previous document. The reverification proposal creates additional burdensome recordkeeping responsibilities for employers in that it does not allow an E-Verify updated case or case creation until the date the current authorization expires, but allows a three-day case update/creation window afterward expiration. As a result, an employer who reverifies on Form I-9 in advance of the expiration date would also need to electronically reverify upon expiration of the prior document.

In addition, in response to a question as to whether there would be the need for employers to collect information more often than quarterly, USCIS responded in the supporting statement that this circumstance was not applicable to the current information collection. However, current employees with temporary employment authorization may be subject to special rules such as H-1B portability,[27] H-1B cap gap extension,[28] receipt rules,[29] the 240 day rule,[30] TPS renewals,[31] and temporary evidence of permanent residence.[32] Employers with such workers could be required to obtain E-Verify information collection through reverification more than once in a calendar quarter.

c. The Reverification Proposal Confuses Rather than Clarifies Employer Statutory Duties.

Under INA §274A(a)(2), "it is unlawful for a person or other entity, after hiring an alien for employment in accordance with paragraph (1), to continue to employ the alien in the United States knowing the alien is (or has become) an unauthorized alien with respect to such employment." Moreover, though current USCIS policy treats a reverification failure as a paperwork violation, there is no statutory or regulatory basis to support that position.[33]

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[27] INA §214(n).
[28] 73 Fed. Reg. 18944–18956 (Apr. 8, 2008).
[29] 8 CFR §274a.2(b)(1)(vi).
[30] 8 CFR §274a.12(b)(20).
[31] USCIS, Form M-274, Handbook for Employers pp.13-14 (2013).
[32] USCIS, Form M-274, Handbook for Employers p. 12 (2013).
[33] INA §274A(e)(5) is the paperwork violation penalty subsection of the INA. The paperwork penalty deals with violations of INA §274A(a)(1)(B), and, in particular references INA §§274A(b)(1) and (2), the employer and employee attestation paperwork requirements, with no mention of reverification. The Virtue Memorandum currently treats a Section 3 reverification failure as paperwork violation. 8 CFR §274a.2(b)(1)(vii) requires reverification, but it is not a statutory paperwork violation. Miller, Seid, Stowe, Immigration Compliance Auditing for Lawyers, p.13. The Virtue Memorandum's Appendix G contains a Notice of Intent to Fine count for paperwork violations without a

E-Verify employers who follow the proposed MOU's three-day reverification procedure rather than the strict expiration date rule found in the I-9 reverification regulation could unintentionally find themselves in violation of INA §274A(a)(2), and for federal contractors, this could lead to debarment.[34] The proposal does not contain a safe harbor provision from a knowing continuing to employ violation.

VI. The DHS FNC Review Proposal Is Deficient with Regard to Both Content and Procedure.

AILA supports USCIS's efforts to reform the E-Verify system to establish a final nonconfirmation (FNC) review system after the employer follows the instructions pertaining negative results such as the "SSA Final Nonconfirmation" and the "DHS Final Nonconfirmation."[35] Through these comments, we have already discussed at length the due process reasons as to why APA rulemaking is necessary. However, even if the proposed changes were presented through the appropriate rulemaking process, there are operational difficulties with implementing the FNC review process.

a. Content and Procedural Deficiencies.

The PRA notice provides little detail as to the proposed FNC review procedures. This uncertainty prevents stakeholders from providing meaningful comments. The following significant unanswered issues remain with regard to the content of the proposal:

1. The notice does not estimate a cost burden associated with the information collection. While it is true that few details are available regarding the FNC review, employee notice and employer costs associated with training and implementation would be significant. Moreover, it is unclear whether FNC review would extend to the proposed reverification change. Without such details, stakeholders are unable to adequately comment on the related employer burdens.

2. The proposed procedures specify that the FNC review process is initiated by the employee, and employers are to receive notice through E-Verify that the employee has initiated FNC review.[36] However, the proposal is unclear as to how an employee

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reference to the reverification regulation. 8 CFR §274a.2(b)(1)(vii). Miller, Seid, Stowe, Immigration Compliance Auditing for Lawyers, p. 132 n. 110.

[34] 8 CFR §274a.2(b)(1)(vii).

[35] Under the current system, when the E-Verify system provides one of the negative responses, the employer may terminate the employee and "shall not be civilly or criminally liable under any law for the termination, as long as the action was taken in good faith reliance on information provided through the confirmation system." IIRAIRA § 403(a)(4). When the employer follows the E-Verify system's instructions to obtain the confirmation of the identity and employment eligibility of the individual in accordance with the E-Verify Users' Manual and the Memorandum of Understanding a rebuttable presumption is established that the employer has not violated § 274A(a)(1)(A) of the Immigration and Nationality Act (INA) with respect to the hiring of any individual. Miller, Seid & Stowe, Section 5.01.

[36] E-Verify PRA Submission, USCIS-2007-0023-0046 (Sept. 2014 |Version 4).

who did not provide his or her e-mail address on the I-9 would be notified and would thus have knowledge that the E-Verify system returned an FNC.

3. The proposal does not discuss safe harbor procedures for employers that continue to employ employees who request FNC review. The notice does not address whether the statutory penalty for failure to inform the agency of continued employment after receipt of an FNC will apply to the employer who continues the employment while FNC review is underway. [37]

4. The FNC E-mail Notification Message indicates that an employee may seek to correct the record if the FNC was issued in error, but provides no instructions to do so.[38]

5. The FNC E-mail message lacks important details such as whether it was SSA or DHS that initiated the FNC.[39]

6. The USCIS proposed MOU fails to provide information regarding the procedural timing requirements in the FNC review process.[40]

b. FNC Review Suggestions.

AILA members practice law in a variety of settings and represent and advise many E-Verify employers. We provide the following suggestions for rulemaking with regard to a workable FNC review rule:

1. Provide clear instructions for appealing the FNC in the e-mail notification and written notice by certified mail.

2. Include additional details, such as information about next steps and expected timing in the FNC Under Review Update E-mail Notification Message. Details such as this would reduce phone calls and e-mails to the agency asking about the status of an appeal and/or next steps.

3. The Employment Authorized-FNC Reviewed E-mail Notification Message states, "Your employer has also been notified in E-Verify that you are authorized to work." In reality, it is likely that the individual will no longer be employed by the time this message is received. We suggest either listing the name of the employer or indicating that "your employer or former employer has also been notified."

4. The Employment Authorized-FNC Reviewed E-mail Notification Message states "your employer may rehire you." This language should be reviewed with an eye

[37] *See* §403(a)(4)(C)(ii) of IIRIRA
[38] See Final Nonconfirmation E-mail Notification Message, FNC E-mails at www.regulations.gov.
[39] *Id.*
[40] *See* Employer MOU Final at www.regulations.gov.

toward the employment law issues that an employer may experience as the result of this notice.

5. The DHS FNC notice provides instructions for appealing the FNC by phone[41] and the SSA FNC notice provides instructions for appealing in-person at an SSA field office.[42] We suggest that mail and electronic methods of appeal be added. These additional appellate methods would increase the employee's opportunity to upload documentation as evidence of employment authorization, provide a written explanation, and, at the end of the process, receive a confirmation number, a method of checking the status of the appeal, and procedural information.

6. The employer instructions on the DHS and SSA FNC notices could be improved by adding information about the employee appeal option and indicating that the employer may still terminate employment. The instructions could be further improved by confirming that the employer may terminate employment even if the employee appeals the FNC and stating that employers who do not terminate employment may face a civil or criminal penalty for continuing to employ the individual.

7. In order to clearly set forth terms and conditions in the revised MOU, USCIS should set specific time requirements for employers to provide notice for affected employees of an FNC, for employees to request a review after the FNC, and for USCIS to complete the FNC review process.

Conclusion

AILA appreciates the opportunity to comment on this notice and concludes that, for the above reasons, the PRA notice should be withdrawn.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION

[41] *See* DHS FNC Notice (Slide 56) at www.regulations.gov.
[42] *See* SSA FNC Notice (Slide 52:) at www.regulations.gov.