

## Immigration and International Trade E-Alert

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### Now Texans Can Self-Check Via E-Verify – Do We Care?

By Kathleen Campbell Walker

Today, United States Citizenship and Immigration Services (USCIS) announced the availability of its Self Check employment eligibility confirmation system to residents in an additional 16 states. Back in March of this year, USCIS started the system for residents of Arizona, Colorado, Idaho, Mississippi, Virginia, and District of Columbia. <http://tinyurl.com/66a8sqq>. Now, Texans along with residents of California, Maine, Louisiana, Maryland, Massachusetts, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New York, Ohio, South Carolina, Utah, and Washington can check government records related to their identity and work eligibility. In addition, Self Check is now also available in Spanish. Si, USCIS habla . . . <http://tinyurl.com/3pw7urh>. USCIS plans on expanding Self Check nationwide by spring of 2012.

What is Self Check? It is an on-line service offered directly to the public via E-Verify, which is the Department of Homeland Security (DHS) program administered by USCIS in partnership with the Social Security Administration (SSA), to help employees verify their work eligibility in the United States (U.S.). It is VOLUNTARY. Self Check is available to workers over the age of 16 to confirm their eligibility to work in the U.S. and to submit corrections to their DHS and SSA records, if needed. For more information about E-Verify, please visit [www.uscis.gov/everify](http://www.uscis.gov/everify). For more information on Self Check, visit [www.uscis.gov/selfcheck](http://www.uscis.gov/selfcheck) or call the E-Verify Employee Hotline at 1-888-897-7781.

Can an employer require me to use Self Check to prove work authorization?  
NO --

*"Individuals who are asked by employers or anyone else to run a Self Check query to prove that they are authorized to work in the U.S., or who believe they are victims of any other type of discrimination or unfair labor practice related to Self Check, should notify the Department of Justice's Office of Special Counsel for Immigration-Related Unfair Employment Practices at 800-255-7688." **In addition, Self Check creates no legal presumption that the employer has not violated immigration law.***

Why would I want to do this? Apparently since the March announcement referenced above, 18,000 individuals in Arizona, Colorado, Idaho, Mississippi, Virginia, and the District of Columbia have used Self Check. It would seem that in a mandatory E-Verify state like Arizona that more workers would choose to check if the government records on their identity and work eligibility were correct. At the same time, Self Check provides no absolute guarantee that users will necessarily sail through the E-Verify process. The privacy protections also are of concern (see below). This check also does not serve as an identity lock or protection for the data provided. Perhaps, the most compelling reason to try Self Check is to review the government's data on your identity and work eligibility and make corrections as needed. In the future, Self Check may serve as an avenue for identity verification that can be preferred by employers, but not today.

What if the record is wrong? A mismatch from Self Check does not mean that the user is not authorized to work in the U.S. There is also no requirement by the user to take any action post receipt of a no match notice from Self Check. Unfortunately, the website offers little help other than to suggest a visit to DHS or SSA, if a mismatch occurs.

How do I Self Check? There is an interactive Self Check preview available from USCIS at <http://tinyurl.com/3e7vefp>. The basic steps for Self Check are:

1. Enter personal identity data (e.g. name, address, date of birth, social security number)
2. Confirm identity by responding to demographic and/or financial questions generated (e.g. phone number of residence, age range of head of household, mortgage lender, mortgage amount, prior residences, prior employment. . .)
3. Enter document data regarding work eligibility (e.g. for U.S. citizens – passport or social security number)
4. Obtain results based on check against SSA and DHS databases. Users do not receive any sort of confirmation number, just a confirmation, non-confirmation, or mismatch notice.

Below is the typical confirmation e-mail notice sent as of August 16:

*Self Check compared the information you provided to U.S. government databases and can confirm that, based on the information you provided, you are eligible to work in the United States.*

*If you are hired today by an E-Verify participating employer and you use the same documents and information provided, you will most likely be instantly work authorized when your employer checks your information using E-Verify.*

*In the event that you are not instantly work authorized, please work with your employer to ensure that your information was entered correctly and, if necessary, follow the steps outlined by E-Verify to resolve any issues.*

*This does not mean that you are guaranteed to pass through E-Verify without issue. A number of things can happen between now and when a future employer checks your information using E-Verify that may cause you to get a mismatch. Those things include name changes, citizenship status changes, expiration of work authorization, or a simple data entry error when your employer is entering your information into E-Verify. It is important that you keep your records up to date with the government to ensure an accurate employment verification process. Thank you for completing the Self Check process!*

Will Self Check impact my credit score? According to USCIS, use of Self Check by a worker results in a record of a "soft hit" or "soft inquiry" on their credit report and soft hits are not shown to businesses and are not used to calculate credit scores.

Who has access to this information? The privacy notice provided today stated the following regarding the information provided through Self Check. Note that USCIS indicates that the privacy statement can change "at any time."

*The identity assurance questions asked and the answers you submit are not provided to USCIS. USCIS does not retain any personally identifiable information in its Self Check DHS logs. Only transaction ID and error codes are retained to facilitate troubleshooting and system management. Third party data providers retain logs of access to your personal information in order to comply with their legal obligations to protect personally identifiable information in their possession per the Fair Credit Reporting Act. The terms and conditions that define the contract for identity proofing permits them to use this information only in very limited ways such as fraud monitoring and prevention within their own database. The Fair Credit Reporting Act also mandates restrictions on the sharing of any data obtained by the third party data provider.*

*The identity proofing process relies on data already in the possession of the third party data provider. If you fail identity proofing, only a set of error codes will be returned to USCIS. USCIS does not retain the questions, your answers, or any identifying information supplied by you during the identity authentication process. If you decide to cancel the identity proofing process during the session, or if the session times out because of inactivity, the personal information entered by you and any questions generated by the identity authentication provider is not*

retained in Self Check. If the answers to the questions match the information contained in the commercial database you will be allowed to continue through the Self Check process. If you successfully pass identity proofing, the personal information you enter persists for the purpose of employment eligibility verification.

**Your name, date of birth, and Social Security number (if you provided it during the identity assurance step) will be persisted and will pre-populate the employment eligibility check.** (emphasis added) Next, you will be required to enter additional information based on the documentation you would present to an employer for processing in E-Verify. The information collected from you is dependent on your citizenship status and your document choices but could include: Social Security Number; Citizenship Status; Alien Number; Passport Number; I-94 Number; and/or Permanent Resident or Employment Authorization Document (EAD) Card Number. This is the information that is used to determine employment authorization in the E-Verify process. This process is the same process as the basic E-Verify query and is described in the E-Verify Privacy Impact Assessment (PIA), dated May 4, 2010.

We reserve the right to change this Privacy Statement at any time.

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## CONTACT US

Our immigration compliance group looks forward to assisting you with any questions. Please contact Kathleen Campbell Walker or Edward Rios with questions. ([kwalker@coxsmith.com](mailto:kwalker@coxsmith.com) – [erios@coxsmith.com](mailto:erios@coxsmith.com)).

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