IMMIGRATION ENFORCEMENT

Preliminary Observations on Employment Verification and Worksite Enforcement Efforts

Why GAO Did This Study

The opportunity for employment is one of the most important magnets attracting illegal aliens to the United States. The Immigration Reform and Control Act (IRCA) of 1986 established an employment eligibility verification process and a sanctions program for fining employers for noncompliance. Few modifications have been made to the verification process and sanctions program since 1986, and immigration experts state that a more reliable verification process and a strengthened worksite enforcement capacity are needed to help deter illegal immigration. In this testimony, GAO provides preliminary observations from its ongoing assessment of (1) the current employment verification process and (2) U.S. Immigration and Customs Enforcement's (ICE) priorities and resources for the worksite enforcement program and the challenges it faces in implementing that program.

What GAO Found

The current employment verification (Form I-9) process is based on employers' review of documents presented by new employees to prove their identity and work eligibility. On the Form I-9, employers certify that they have reviewed documents presented by their employees and that the documents appear genuine and relate to the individual presenting the documents. However, document fraud (use of counterfeit documents) and identity fraud (fraudulent use of valid documents or information belonging to others) have undermined the employment verification process by making it difficult for employers who want to comply with the process to ensure they hire only authorized workers and easier for unscrupulous employers to knowingly hire unauthorized workers. In addition, the number and variety of documents acceptable for proving work eligibility has hindered employer verifications efforts. In 1998, the former Immigration and Naturalization Service (INS), now part of the Department of Homeland Security (DHS), proposed revising the Form I-9 process, particularly to reduce the number of acceptable work eligibility documents, but DHS has not yet finalized the proposal. The Basic Pilot Program, a voluntary program through which participating employers electronically verify employees' work eligibility, shows promise to enhance the current employment verification process, help reduce document fraud, and assist ICE in better targeting its worksite enforcement efforts. Yet, several current weaknesses in the pilot program's implementation, such as its inability to detect identity fraud and DHS delays in entering data into its databases, could adversely affect increased use of the pilot program, if not addressed.

The worksite enforcement program has been a low priority under both INS and ICE. For example, in fiscal year 1999 INS devoted about 9 percent of its total investigative agents' time to worksite enforcement, while in fiscal year 2003 it allocated about 4 percent. ICE officials told us that the agency has experienced difficulties in proving employer violations and setting and collecting fine amounts that meaningfully deter employers from knowingly hiring unauthorized workers. In addition, INS and then ICE shifted its worksite enforcement focus to critical infrastructure protection after September 11, 2001.