Executive Memorandum

Immigration Enforcement and Workplace Verification: Sensible Proposals for Congress

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Curbing illegal entry and unlawful presence will require enforcing immigration laws. Today, significant parts of the U.S. economy depend on undocumented workers. Ending this dependence will require enforcing laws that bar employers from hiring people who are illegally in the United States. However, Congress should do this in a way that does not make matters worse. Creating a massive electronic government system to verify every worker's right to work is a bad idea. It would be expensive, intrusive, and probably ineffective. Instead, Congress should:

- Require the Department of Homeland Security (DHS) to focus enforcement efforts on the worst abusers,

- Require the Social Security Administration (SSA) to share Social Security number "no matches" with the DHS, and

- Strengthen the tax code so that the wages of illegal workers are not tax-deductible.

A Problem That Needs Solving. Research by the Government Accountability Office (GAO) and the SSA Inspector General suggests an alarming degree of collusion between illegal workers and employers who intentionally turn a blind eye to hiring individuals who are unlawfully present in the United States. This collusion helps to fuel a burgeoning population of undocumented workers and encourages unprece-

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dented levels of illegal border crossings. Comprehensive border security and immigration reform must include a deterrent that discourages wholesale employment of undocumented workers, and it should offer employers legal and practical alternatives to hire the workers they need.

The Wrong Answer. Solving the problem, however, does not require a massive electronic worker verification system as proposed in some immigration reform legislation. These bills would expand Basic Pilot, a pilot program for employment eligibility verification created by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, into a system that would cover the entire country. Such a program would be:

- **Unnecessary.** Undocumented workers are not distributed uniformly throughout the economy. They are concentrated in a few sectors including construction, agriculture, and some service industries. Saddling the entire economy with

the costs of electronic verification makes no economic sense.

- **Inefficient.** Given the often inaccurate and out-dated data in SSA records, as well as the limits of technology, even a small percentage of false denials would adversely affect millions of people in America who have a legitimate right to work. This would also cause an unacceptable loss of productivity totaling in the billions of dollars.

- **Intrusive.** The program could run afoul of legitimate privacy concerns. The government would need to ensure that both the government and employers safeguard massive databases of information, which would be attractive targets for identity thieves.

- **Costly.** Building a government information technology system to handle millions of transactions, integrate legacy systems, create the appropriate infrastructure, and provide the necessary training, oversight, and redress would cost billions of dollars and take years to implement.

- **Unlikely to work.** In a 2003 review, the Justice Department found a number of significant shortcomings in Basic Pilot and concluded that the technology was not "scaleable" into a national system.

Adopting such a draconian approach before the government has tried simpler and less expensive means makes little sense. The government already has the technology and resources to implement targeted enforcement by using the payroll tax system.

Social Security "No Matches." Employers currently verify an employee's right to work by submitting the person's Social Security number (SSN) for payroll tax purposes. The GAO found that approximately 10 percent of the SSNs (nearly 9 million) submitted by employers on earnings reports initially do not match SSA master records. SSA attempts to reconcile "no matches" by notifying employers and employees of the discrepancies, but few employers and employees respond to the "no match" letters. Most of the mismatches are probably innocuous, resulting from a misspelling or a change of the employee's name, but some mismatches are clearly intended to mask employment of undocumented workers. The GAO found many examples of employers using the same SSN for more than 10 different workers in a single year and over a hundred instances in which employers used the same SSN on more than 100 earnings reports.

Regrettably, federal law prohibits the SSA from giving the DHS access to "no match" SSNs. With those data and knowing which parts of the economy most often employ undocumented workers, the DHS could target enforcement against large-scale employers who are intentionally skirting the law. Within a few years, the DHS conceivably could target one-third of the illegal workforce—about 5 million illegal workers.

As part of targeted enforcement, Congress should amend the tax code to remove the tax-deductibility of wages paid to unauthorized aliens. This would further strengthen the hand of the DHS in securing the cooperation of American businesses.

A Better Way. Trying to create a worker verification system to ensure that every individual who is unlawfully present is denied a job would unnecessarily hamstring the U.S. economy and threaten the rights and privacy of millions of legitimate workers. Targeted enforcement, coupled with creating opportunities for U.S. businesses to hire the employees that they need to conduct business, would help to change the culture of the American workplace, which has ignored immigration laws for too long and shifted the costs of an undocumented workforce onto states and local communities. As part of a comprehensive package of enforcement and opportunity, targeted workplace enforcement would help to put things right.

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