



Memorandum from the Office of the Inspector General

January 9, 2024

Amanda D. Johns
Todd M. Peney

**REQUEST FOR MANAGEMENT DECISION – EVALUATION 2023-17416 – TVA'S
PREEMPLOYMENT INVESTIGATION AND ONBOARDING PROCESSES**

Attached is the subject final report for your review and management decision. You are responsible for determining the necessary actions to take in response to our findings. Please advise us of your management decision within 60 days from the date of this report. In accordance with the Inspector General Act of 1978, as amended, the Office of the Inspector General is required to report to Congress semiannually regarding evaluations that remain unresolved after 6 months from the date of report issuance.

If you have any questions or wish to discuss our findings, please contact Samuel L. Ruble, Senior Auditor, Evaluations, at (865) 633-7384 or Lindsay J. Denny, Director, Evaluations, at (865) 633-7349. We appreciate the courtesy and cooperation received from your staff during the evaluation.

David P. Wheeler
Assistant Inspector General
(Audits and Evaluations)

SLR:FAJ

Attachment

cc (Attachment):

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OIG File No. 2023-17416



Office of the Inspector General

Evaluation Report

To the Vice President, Talent,
and the Director, TVA Police
and Emergency Management

TVA'S PREEMPLOYMENT INVESTIGATION AND ONBOARDING PROCESSES

Evaluation Team
Samuel L. Ruble
Heather M. Cook

Evaluation 2023-17416
January 9, 2024

ABBREVIATIONS

CFR	Code of Federal Regulations
FIS	Federal Investigative Standards
HR&A	Human Resources and Administration
HR&C	Human Resources and Communication
IRCA	Immigration Reform and Control Act of 1986
NERC	North American Electric Reliability Corporation
SPP	Standard Programs and Processes
TVA	Tennessee Valley Authority
TVAP&EM	TVA Police and Emergency Management
U.S.	United States

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E-MAIL DATED DECEMBER 12, 2023, FROM AMANDA D. JOHNS AND
TODD PENEY TO DAVID P. WHEELER



Evaluation 2023-17416 – TVA’s Preemployment Investigation and Onboarding Processes

EXECUTIVE SUMMARY

Why the OIG Did This Evaluation

The Immigration Reform and Control Act of 1986 (IRCA) prohibits employers from hiring any individual, including a United States (U.S.) citizen, for employment in the U.S. without verifying his or her identity and employment authorization on Form I-9.ⁱ Additionally, Title 8 Code of Federal Regulations, Section 274a.2 (8 CFR § 274a.2), *Verification of Identity and Employment Authorization*, reiterates that within 3 business days of the hire, an employer must complete the “Employer Review and Verification” section on the Form I-9 and sign the attestation with a handwritten or electronic signature. For preemployment suitability and onboarding, the Tennessee Valley Authority (TVA) Human Resources and Administration (HR&A) is responsible for completing Form I-9 to verify eligibility for employment for each person hired. Additionally, they contact TVA Police and Emergency Management (TVAP&EM) to initiate employee background checks.

In November 2022, we issued a management alert to TVA indicating we had identified I-9 authorization forms not completed for some employees and some not completed within the required 3 days. According to TVAP&EM, “If [Human Resources and Communication] HR&Cⁱⁱ fails to obtain a Form I-9 or e-verify in the time required, TVAP[&EM] will revoke physical access.”

Due to the risk of unauthorized individuals accessing TVA facilities or systems, we conducted this evaluation of TVA’s preemployment investigation and onboarding processes. The objective of our evaluation was to determine if TVA is performing preemployment suitability and onboarding steps necessary for access in a timely manner. This evaluation focused on the Form I-9 portion of preemployment suitability and onboarding.

What the OIG Found

We found TVA was allowing access to TVA facilities while not always performing preemployment suitability and onboarding steps in a timely manner. Specifically, we determined that the Form I-9, for 381 of 1,571 personnel (24 percent) hired between October 1, 2021, and June 30, 2023, was either not completed in a timely manner or never

ⁱ Form I-9 is used to verify the identity and employment authorization of individuals hired for employment in the U.S. Form I-9 has been the foundation of the verification process since 1986 when employers began verifying the employment authorization and identity of new hires under IRCA.

ⁱⁱ Due to a reorganization announcement on July 17, 2023, Human Resources and Communication (HR&C) became Human Resources and Administration (HR&A).



Evaluation 2023-17416 – TVA’s Preemployment Investigation and Onboarding Processes

EXECUTIVE SUMMARY

completed in accordance with IRCA and 8 CFR §§ 274a.1-274a.14. However, according to TVAP&EM personnel, physical access should have been revoked but was not because HR&A does not notify them when the I-9 threshold is exceeded. We also identified opportunities to strengthen TVA Standard Programs and Processes (SPP) to better align with federal requirements.

What the OIG Recommends

We recommend the Vice President, Talent, take steps to ensure (1) TVA complies with federal laws and regulations by completing Form I-9s in the required time frame and (2) TVA SPPs are updated to better align with federal requirements. We recommend the Director, TVAP&EM update TVA SPPs to better align with federal requirements.

TVA Management’s Comments

TVA management responded to the draft report, noting that based on their review of the recommendations, there are opportunities for improvement in the following areas: (1) internal audit process to ensure compliance with all I-9 Guidelines, (2) clarification of related policies and expected procedures, and (3) training around the specific expectations regarding the policies and procedures. See the Appendix for management’s complete response.

BACKGROUND

The Immigration Reform and Control Act of 1986 (IRCA) prohibits employers from hiring and employing any individual, including a United States (U.S.) citizen, for employment in the U.S. without verifying his or her identity and employment authorization on Form I-9.¹ Additionally, Title 8 Code of Federal Regulations, Section 274a.2 (8 CFR § 274a.2), *Verification of Identity and Employment Authorization*, reiterates that within 3 business days of the hire, an employer must complete the “Employer Review and Verification” section on the Form I-9 and sign the attestation with a handwritten or electronic signature.

For preemployment suitability and onboarding, Human Resources and Administration (HR&A) is responsible for:

- Ensuring all required documentation for Tennessee Valley Authority (TVA) employees is received upon report date.
- Verifying required identification is received.
- Checking E-Verify² to ensure that candidate is authorized to work in the U.S.
- Completing Form I-9 to verify eligibility for employment for each person hired.

Additionally, HR&A personnel contact TVA Police and Emergency Management (TVAP&EM) to initiate employee background checks. All employees and contractors with physical access to TVA sites and/or facilities, or logical access to TVA information or information systems, are subject to a background investigation. According to TVAP&EM, “If [Human Resources and Communication] HR&C fails to obtain an I-9 or e-verify in the time required, TVAP[&EM] will revoke physical access.” The extent of the investigation is determined by the position the individual will hold and any clearances required for the position.

TVA currently utilizes a 5-Tier investigation system as outlined in the 2012 Federal Investigative Standards (FIS). Different tier levels require different steps to be completed in the background check.

- Tier 1 is basic employee suitability clearance for low risk, non-sensitive positions.
- Tier 2 personnel occupy positions identified as moderate risk public trust, may have access to moderate or high-risk information systems, or critical energy infrastructure information. These personnel must have a favorably

¹ Form I-9 is used to verify the identity and employment authorization of individuals hired for employment in the U.S. Form I-9 has been the foundation of the verification process since 1986 when employers began verifying the employment authorization and identity of new hires under IRCA.

² E-Verify, authorized by Illegal Immigration Reform and Immigrant Responsibility Act of 1996, is a web-based system through which employers electronically confirm the employment eligibility of their employees.

- adjudicated Tier 2 investigation prior to gaining logical or physical access to identified assets.
- Tier 3 personnel have an official need to access U.S. Government classified information at the Secret or Confidential level.
 - Tier 4 is for high-risk public trust personnel in critical sensitive positions and is not applicable to TVA personnel, according to TVAP&EM.
 - Tier 5 personnel have an official need to access U.S. Government classified information at the Top Secret level.

The North American Electric Reliability Corporation (NERC)³ clearance is not affiliated with the 2012 FIS, but is required for individuals accessing the Bulk Electric System and/or cyber systems.

In November 2022, we issued a management alert to TVA indicating we had identified I-9 authorization forms not completed for some employees and some not completed within the required 3 days. In response to the management alert, HR&A created a checklist for processing new personnel that HR&A personnel stated has been used more consistently since July 2023. In addition, according to TVAP&EM, they are implementing a Personal Identification Verification project, to enhance access control processes for logical and physical access. The project should mitigate the risk of continuing to employ personnel who have not gone through the federally required verification process within 3 days of their first day of employment, but the system is not scheduled to be completed until September 2024.

Due to the risk of unauthorized individuals accessing TVA facilities or systems, we conducted an evaluation of TVA preemployment investigation and onboarding processes. This evaluation focused on the Form I-9 portion of preemployment suitability and onboarding.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of this evaluation was to determine if TVA was performing preemployment suitability and onboarding steps necessary for access in a timely manner. The scope of this evaluation was new employees hired from October 1, 2021, through June 30, 2023. To achieve our objectives, we:

- Reviewed the following federal laws, regulations, and TVA Standard Programs and Processes (SPP) to obtain an understanding of preemployment investigation and onboarding requirements.
 - IRCA
 - 5 CFR § 731 *Suitability*
 - 5 CFR § 732 *National Security Positions*

³ NERC is a not-for-profit international regulatory authority whose mission is to assure the effective and efficient reduction of risks to the reliability and security of the grid.

- 8 CFR § 274a.2 *Verification of Identity and Employment Authorization*
 - TVA-SPP-11.201 *Filling Vacant Positions*
 - TVA-SPP-11.203 *Citizens and Other Protected Individuals*
 - TVA-SPP-14.400 *Personnel Security*
 - TVA-SPP-14.420 *Employment Suitability*
 - TVA-SPP-14.450 *National Security Clearances*
 - TVA-SPP-14.460 *Tier 2 - Moderate Risk Public Trust Investigation*
 - TVA-SPP-14.470 *North American Reliability Corporation (NERC) Personnel Risk Assessment (PRA)*
- Conducted interviews with key personnel and analyzed the results to identify themes that could affect TVA's preemployment investigation and onboarding processes.
 - Compared the differences between TVA's processes and regulations to identify any potential gaps.
 - Examined new-hire records from October 1, 2021, through June 30, 2023, to determine if Form I-9s were completed for access to TVA facilities in a timely manner.

This evaluation was conducted in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*.

FINDINGS

We found TVA was allowing access to TVA facilities while not performing preemployment suitability and onboarding steps necessary for access in a timely manner. Specifically, we determined that the Form I-9, for 381 of 1,571 personnel (24 percent) hired between October 1, 2021, and June 30, 2023, was either not completed in a timely manner or never completed in accordance with IRCA and Title 8 CFR §§ 274a.1 – 274a.14. However, according to TVAP&EM personnel, physical access should have been revoked but was not because HR&A does not notify them when the I-9 threshold is exceeded. We also identified opportunities to strengthen TVA SPPs to better align with federal requirements.

TVA WAS NOT ALWAYS PERFORMING PREEMPLOYMENT SUITABILITY AND ONBOARDING STEPS NECESSARY FOR ACCESS IN A TIMELY MANNER

According to IRCA, employers are prohibited from hiring any individual, including a U.S. citizen, for employment in the U.S. without verifying his or her identity and employment authorization on Form I-9. Our review of new-hire records from October 1, 2021, through June 30, 2023, found 325 instances where the Form I-9 was not signed within 3 days of hire and 56 instances where no Form I-9 on file in TVA's system of record, as required by Title 8 CFR § 274a.2. According to

TVAP&EM, 63 of the 381 instances, where access to TVA facilities should have been revoked, were for Tier 2 or greater clearances granted for sensitive positions, and/or NERC clearances.

While TVA created a checklist to improve this process following our management alert, we found exceptions still existed. We identified 26 exceptions, which occurred after TVA management's November 2022 response to the management alert. There were 7 discrepancies between the management alert date and January 2023 and an additional 19 discrepancies in May and June 2023. We notified HR&A of the above discrepancies, and they have begun corrective actions.

CERTAIN TVA SPPs COULD BETTER ALIGN WITH FEDERAL REQUIREMENTS OR ARE NOT UP TO DATE

Our review of TVA SPPs related to the preemployment investigation and onboarding processes identified opportunities for TVA to better align with federal requirements or be updated. Specifically:

- TVA-SPP-11.203, *Citizens and Other Protected Individuals*, does not include 8 CFR § 274 information such as within three business days of the hire;
 - Physically examine the documentation presented by the individual establishing identity and employment authorization and ensure the documents presented appear to be genuine and relate to the individual, and,
 - Complete section 2 “Employer review and Verification” on the Form I-9 and sign the attestation with a handwritten or electronic signature.
- TVA-SPP-14.420, *Employment Suitability*, refers to a 3-Tier investigation system, which is not currently in use. TVA currently utilizes a 5-Tier investigation system as outlined in the 2012 FIS.

RECOMMENDATIONS

We recommend the Vice President, Talent, take steps to ensure:

- TVA complies with federal laws and regulations by completing Form I-9s in the required time frame.
- TVA SPPs are updated to mirror federal requirements.

We recommend the Director, TVAP&EM, take steps to align TVA SPPs with the 5-Tier system currently in use by TVA.

TVA Management's Comments – TVA management responded to the draft report, noting that based on their review of the recommendations, there are opportunities for improvement in the following areas: (1) internal audit process to ensure compliance with all I-9 Guidelines, (2) clarification of related policies and expected procedures, and (3) training around the specific expectations regarding the policies and procedures. See the Appendix for TVA management's complete response.

December 12, 2023

David P. Wheeler

Response to Request for Comments – Evaluation 2023-17416 – TVA's Preemployment Investigation and Onboarding Processes

Our response to your November 22, 2023, request for comments regarding the subject draft report is attached.

TVA is committed to fulfilling our responsibilities and ensuring that all personnel are authorized to work in the United States per the federal guidelines and in advance to any physical access being granted to TVA facilities. For this reason, TVA appreciates the Office of Inspector General identifying areas where we can improve our processes, procedures, and training.

TVA's planned actions will be coordinated with TVA Police and Human Resources as part of TVA's extensive review of the I9 federal requirements and access process to our facilities and systems. We have concluded from our review of the recommendations that there are opportunities for improvement in the following areas:

- Internal Audit process to ensure compliance with all I9 guidelines.
- Clarification of related policies and expected procedures.
- Training around the specific expectations regarding the policies and procedures

We would like to thank the OIG team for their professionalism and cooperation in conducting this audit. If you have any questions, please let us know.



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