
Pre-Adverse / Adverse Action Notifications

******Note: this guide should NOT be construed as legal advice. We are not attorneys and you should consult legal counsel before implementing any regulatory compliance protocols. We are providing this information solely for your general information and make no representations about the accuracy or completeness of this guide******

WHAT ARE PRE-ADVERSE AND ADVERSE ACTION NOTIFICATIONS?

Most HR professionals who have had to perform employment background screens are aware of the Fair Credit Reporting Act's Adverse Action Notification requirements. Basically, the law says that before you decline employment because of information that has been returned on a background screen, you must give the applicant a chance to review the information in case there are any errors. Background screens collect information from a lot of different sources and are prone to errors, so giving a job applicant the chance to make sure the report is accurate before closing the door on a professional relationship is not only fair, but is required by law.

The main law that lays out this process is the FCRA, which dictates you send two letters: a Pre-Adverse Action notice (with a copy of the report in question and a copy of the applicant's "Summary Of Rights Under The FCRA") and - at least five business days later - an Adverse Action notice.

The **Pre-Adverse Action** notice warns the applicant that your organization might be taking "Adverse Action" against the applicant (declining to hire them, withdrawing an offer, not letting them volunteer, etc) based on a background screening report and that they should take a look at it to make sure everything is correct. It instructs them to contact the background screening company that produced the report if there are any inaccuracies.

If the applicant doesn't dispute anything on the report, the FCRA says you must then send a second letter: the **Adverse Action** notice. The FCRA isn't clear on how long you have to wait before sending out the second notice, but the FTC has said that a minimum of five business days must pass. This notice is the final piece of the process and informs the applicant that you either are declining their application or withdrawing the conditional offer that was made, again giving them the name of

the background screening company and letting them know they can dispute the report's information.

It's important to remember that this is a basic breakdown of a very complicated Federal law and that there may be additional obligations that your State and City have added. Be sure to research your local requirements and speak to legal counsel to be sure you're dotting all the `i`s and crossing all the `t`s before sending these notices.

HOW WE CAN HELP

Our software platform can help you with some of this process. We have templates built in that will populate your applicant's info into these letters and send them via email known as **QuickView**. The applicant will use their unique identifiers to verify their identity and the system will log their IP Address and when they securely view the letters. If you like, we can even send you a reminder to have the system send the subsequent Adverse Action notice after you've sent the initial Pre-Adverse Action.

The newest update to this QuickView software aims to help you address some of the requirements that some cities and states have added to this process. If you're in a city that requires employers to list out specific disqualifying items from a background screen in one of these notices, the software should prompt you for that information.

Keep in mind that these templates are just examples, be sure to review them with your legal counsel and let us know if you'd like any changes as we can customize them to your specifications.

QuickView is just a tool to help an engaged user see the process through.

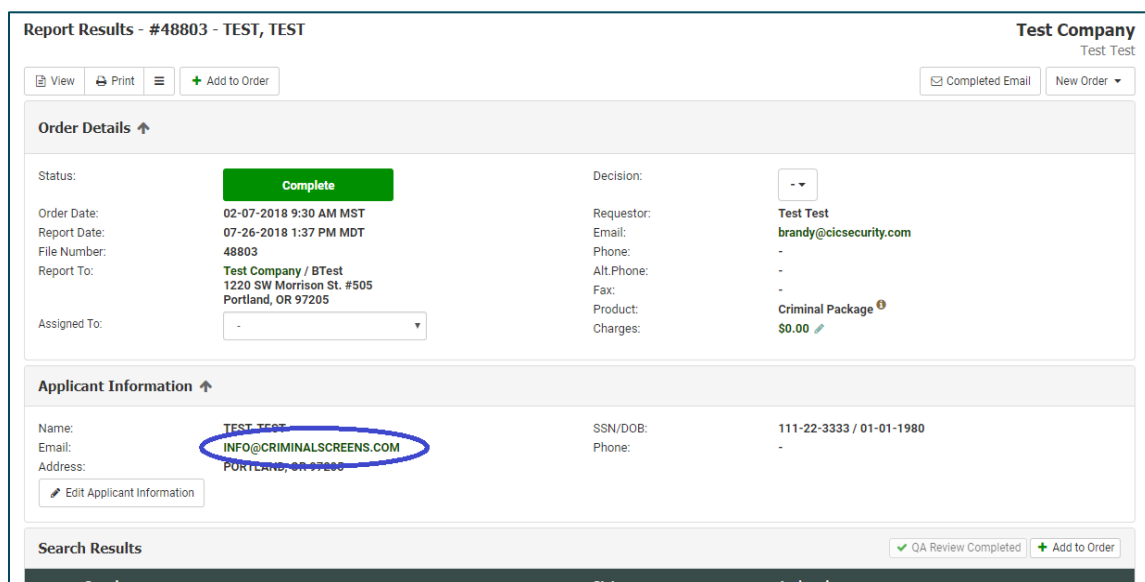
COLLECT EMAIL ADDRESSES

If you'd like to send electronic Pre-Adverse Action / Adverse Action notices, be sure to collect your applicant's email address. If you don't have that, a copy of the letter will have to be printed and mailed (and may end up in your **Disclosures Queue**). We can send paper notices for you as well, though *you'll have to let us know you'd like that service* and there is a \$3 per notice fee for us to do so. The electronic version can be sent at no charge. Here's how to use the QuickView system to help send these notices electronically:



SENDING ELECTRONIC PRE-ADVERSE / ADVERSE ACTION LETTERS VIA THE "DISCLOSURES AND FORMS" SECTION ON THE RESULTS PAGE

Collect the applicant's email address. If you don't have their email address, you will need to mail these with a stamp and envelope.



Report Results - #48803 - TEST, TEST **Test Company**
Test Test

View Print Add to Order Completed Email New Order

Order Details

Status: **Complete** Decision: --

Order Date: 02-07-2018 9:30 AM MST Requestor: **Test Test**

Report Date: 07-26-2018 1:37 PM MDT Email: **brandy@cicsecurity.com**

File Number: 48803 Phone: -

Report To: **Test Company / BTest** Alt. Phone: -

1220 SW Morrison St. #505 Fax: -

Portland, OR 97205 Product: **Criminal Package**

Assigned To: - Charges: **\$0.00**

Applicant Information

Name: **TEST, TEST** SSN/DOB: 111-22-3333 / 01-01-1980

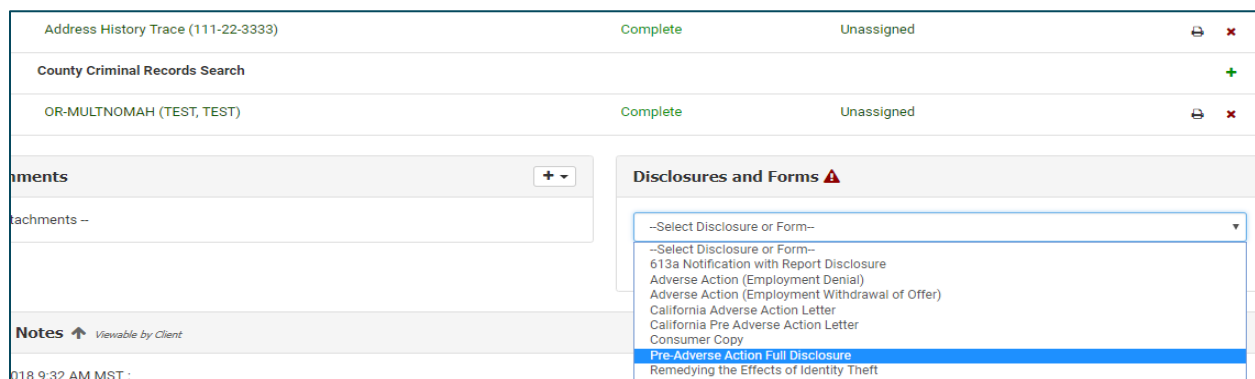
Email: **INFO@CRIMINALSCREENS.COM** Phone: -

Address: **PORTLAND, OR 97205**

Edit Applicant Information

Search Results QA Review Completed Add to Order

After the report has been completed, navigate to the results page and then down to the Disclosures and Forms section on the right-hand side of the report, about halfway down the page



Address History Trace (111-22-3333) Complete Unassigned

County Criminal Records Search +

OR-MULTNOMAH (TEST, TEST) Complete Unassigned

Disclosures and Forms

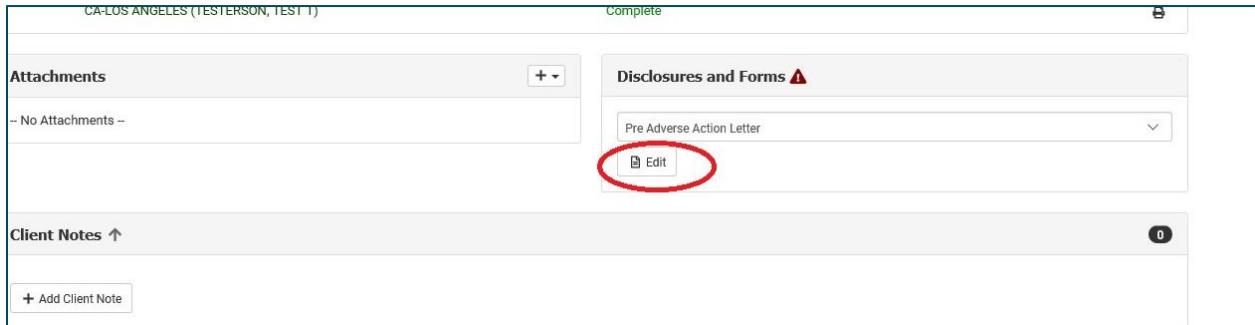
--Select Disclosure or Form--

- Select Disclosure or Form--
- 613a Notification with Report Disclosure
- Adverse Action (Employment Denial)
- Adverse Action (Employment Withdrawal of Offer)
- California Adverse Action Letter
- California Pre Adverse Action Letter
- Consumer Copy
- Pre-Adverse Action Full Disclosure**
- Remedying the Effects of Identity Theft

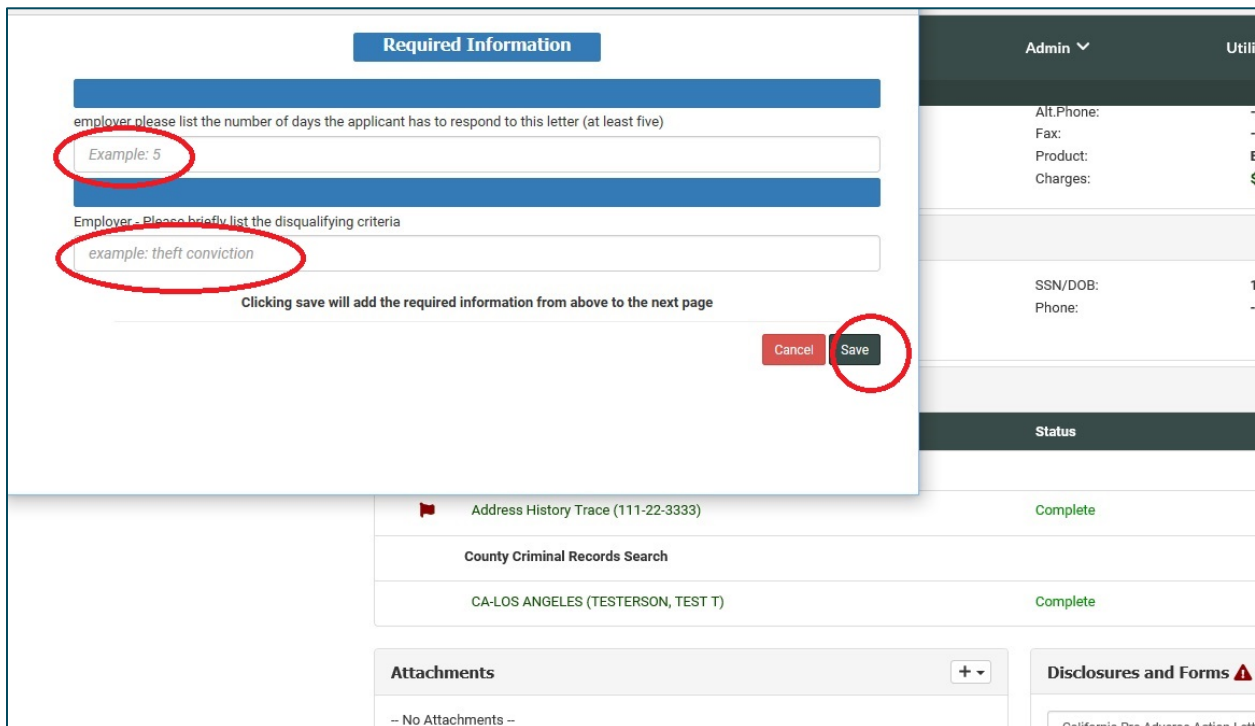
Notes Viewable by Client

018 9:32 AM MST:

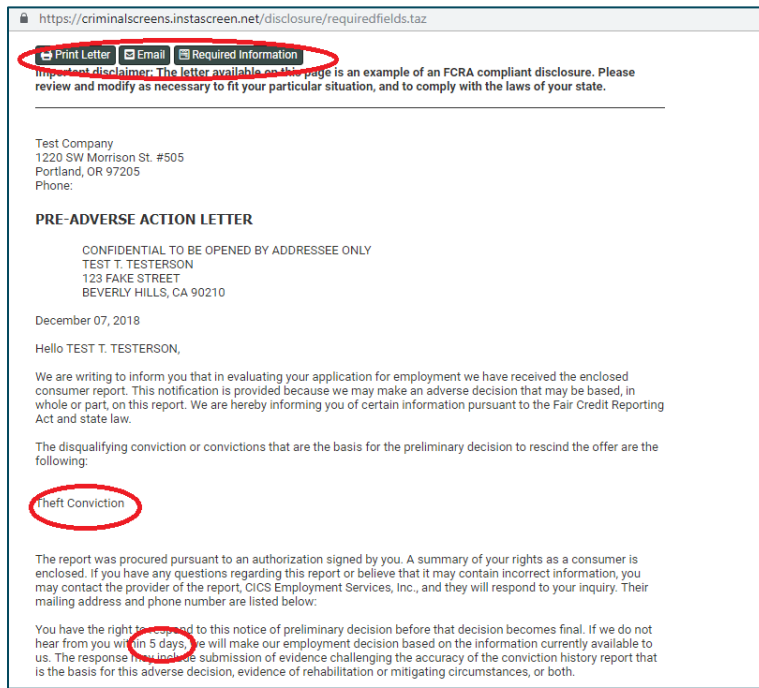
Select the notice you'd like to send (**remember: send the Pre-Adverse first, then the Adverse at least a week later**). Then click "Edit" to enter the required information.



Enter the required information on the screen that may pop up, then click "Save". (Note: Different information is required in various employment jurisdictions in different letters. The system is set up to try and ask for the information that local laws require)

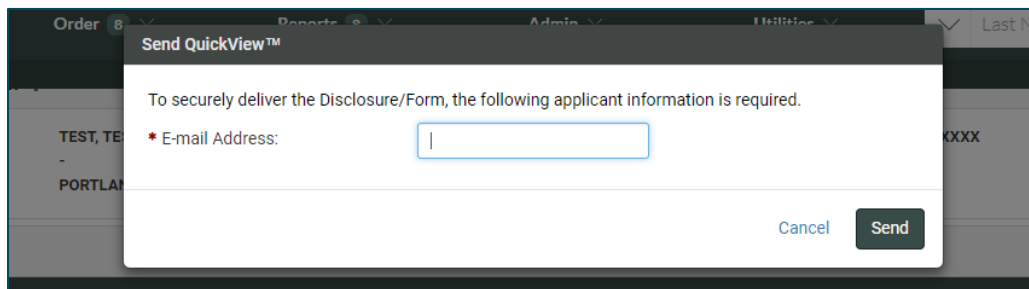


This is what the letter will look like after you've edited it with the required information:



Select "Email" to send the letter to the email address that was submitted for your applicant. To print and mail a hard copy, select "Print Letter". If you'd like to change any of the unique information that you provided, click "Required Information" to be taken back to the prompt. (Again, not every location will require you to list the specific "disqualifying information")

If you didn't enter the applicant's email address at the time of order entry, the system will prompt you to enter it after you've requested the notice to be emailed.



If you don't have your applicant's email address, you can still select the notice you'd like to send, click "Edit" then "View" and print the notice to be mailed by you or your staff. (This option to add an email address at the last minute won't work when sending letters via the Report Decision Tool, which is another method of sending these notices that we'll cover later in this guide).

EMPLOYMENT DENIAL OR WITHDRAWAL OF OFFER?

When sending the Adverse Action letter from the "Disclosures and Forms" section, the default sample letters offer a choice to either send the Adverse Action *Employment Denial* template or the Adverse Action Withdrawal of Offer template.

The Employment Denial template has the following default language:

This letter is to inform you that an offer of employment will not be made at this time. This decision was based in whole or part, on the information provided to us in a Consumer Report or Investigative Consumer Report.

The disqualifying conviction or convictions that are the basis for the decision for denial are the following:

And the Withdrawal of Offer template has this default language:

This letter is to inform you that we find it necessary to rescind our previous offer of employment.

This decision was based in whole or part, on the information provided to us in a Consumer Report or Investigative Consumer Report.

The disqualifying conviction or convictions that are the basis for the decision to withdraw the offer are the following:

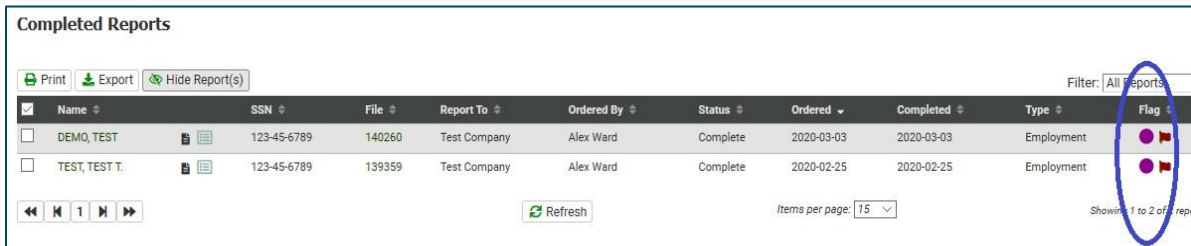
You'll, of course, want to use whichever template has the language most appropriate to the status of your applicant. **Please note that if you use the Report Decision Tool (described below), the Adverse Action Employment Denial template will be selected automatically.



When an applicant receives the **QuickView** email, they will have to pass an identity verification test. To pass the identity verification, they will need to enter the last four of the SSN and their current zip code. If they fail the verification or they "decline" online viewing, unless you've arranged for us to mail them off for you the letter will be sent to your **Disclosures Queue** to be printed and mailed. We'll talk more about your **Disclosures Queue** later in this guide.

SENDING PRE-ADVERSE / ADVERSE ACTION LETTERS VIA THE REPORT DECISION TOOL

Please note, this feature is not activated for our clients located in California. California requirements have made it necessary to develop letters just for that state that don't work with this feature.

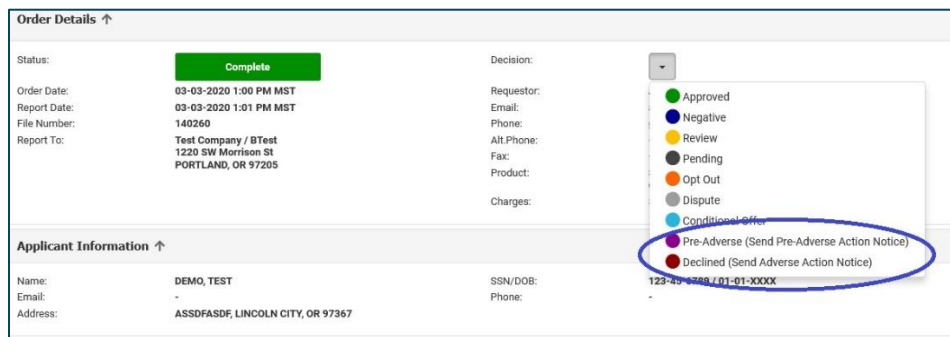
The Report Decision Tool is a popular feature that you can use to quickly annotate where you are in the decision process with your applicant. There are nine different "decisions" that are color coded. When you update the decision on a report, you can see its corresponding color on the Completed Reports list.



| <input type="checkbox"/> | Name | SSN | File | Report To | Ordered By | Status | Ordered | Completed | Type | Flag |
|--------------------------|---------------|-------------|--------|--------------|------------|----------|------------|------------|------------|--|
| <input type="checkbox"/> | DEMO, TEST | 123-45-6789 | 140260 | Test Company | Alex Ward | Complete | 2020-03-03 | 2020-03-03 | Employment |  |
| <input type="checkbox"/> | TEST, TEST T. | 123-45-6789 | 139359 | Test Company | Alex Ward | Complete | 2020-02-25 | 2020-02-25 | Employment |  |

There are two of these "Decisions" that will automatically prompt the system to send notices to the applicant. Again, be sure to have the email address for this one to work right. If you use this method without having an email address submitted in the system for the applicant, you will send the letters to your **Disclosures Queue** to be printed and mailed.

Navigate to the results page and select the Decision tool in the top right-hand part of the report. If you select the Decision of "Pre-Adverse" or "Declined" the system will ask you if you would like to email a notice via QuickView (the secure email system the notices are sent from).

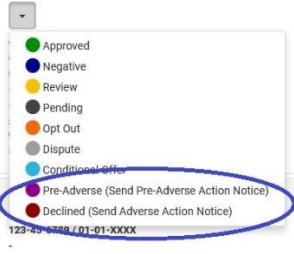


Order Details ↑

Status: **Complete**

Order Date: 03-03-2020 1:00 PM MST
Report Date: 03-03-2020 1:01 PM MST
File Number: 140260
Report To: Test Company / BTest
1220 SW Morrison St
PORTLAND, OR 97205

Requestor:
Email:
Phone:
Alt. Phone:
Fax:
Product:
Charges:

Decision: 

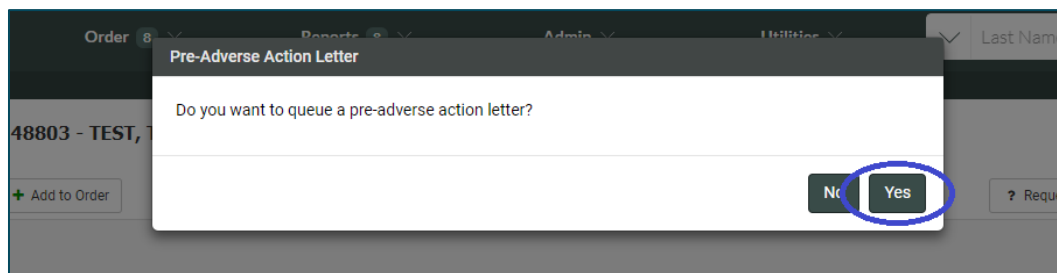
Applicant Information ↑

Name: DEMO, TEST
Email: -
Address: ASSDFASDF, LINCOLN CITY, OR 97367

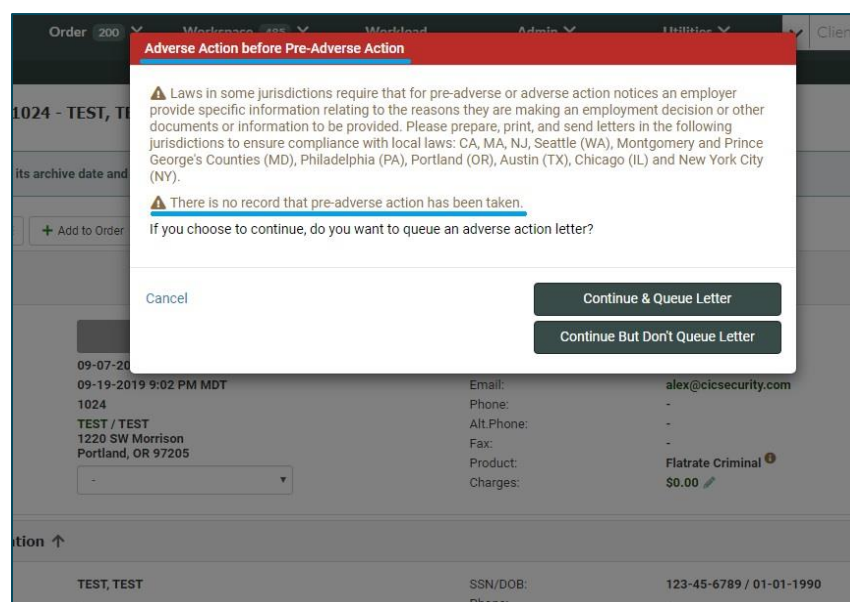
SSN/DOB: 123-45-6789 / 01-01-XXXX
Phone: -

If an email address is entered in the applicant's information, the system will ask if you'd like to send the notice via QuickView.

If you don't have an email address entered for your applicant, the system will instead ask if you'd like to queue the corresponding notice to be printed later from your **Disclosures Queue**. (If you need to add an email address for your applicant at this point, you can use the "Disclosures and Forms" drop down as discussed above)

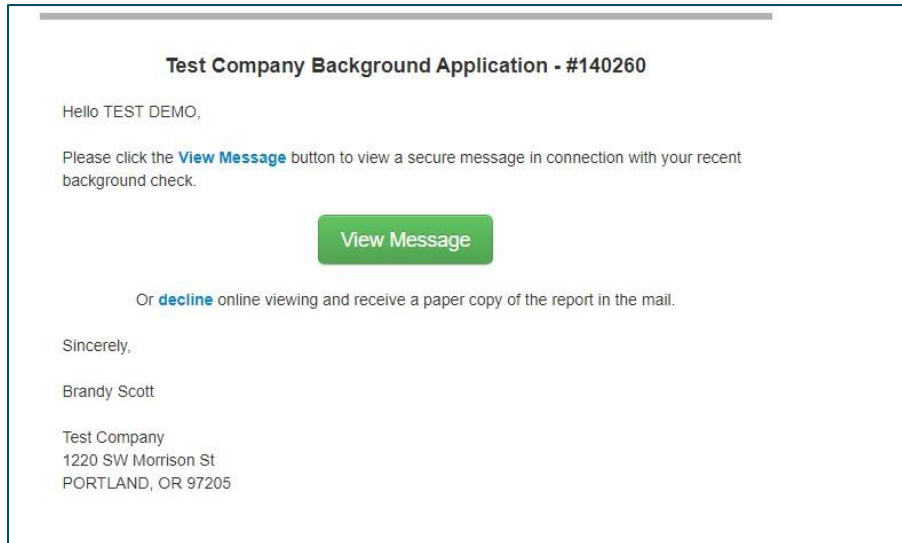


Clicking "Yes" here will queue the letter up in your **Disclosures Queue** unless you've arranged for us to mail them off for you. Note: If you try to send an Adverse Action letter (with the Report Decision Tool only) without first sending a Pre-Adverse Action letter, you will receive the following warning:



WHAT YOUR APPLICANT WILL RECEIVE

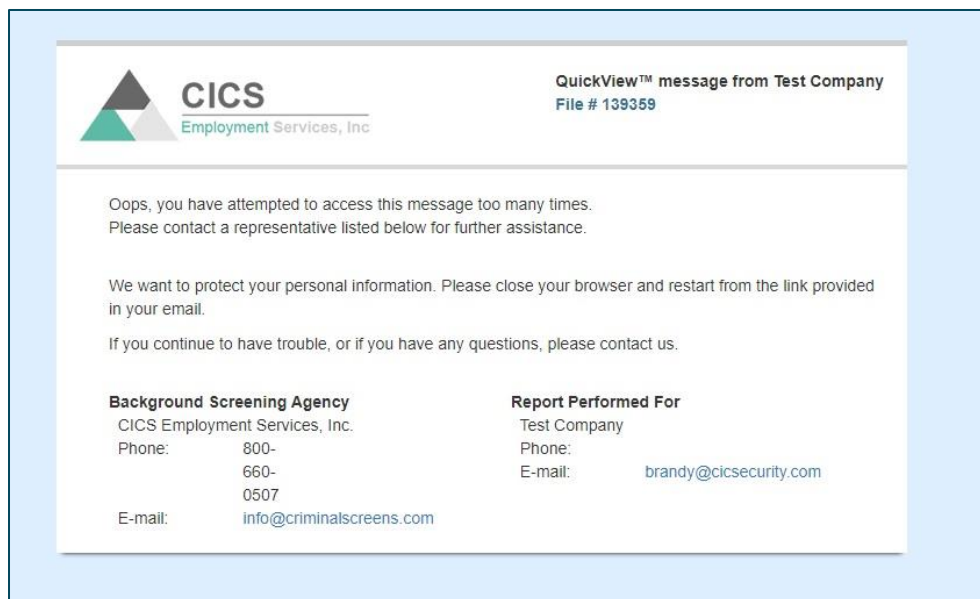
After you've sent an electronic Pre-Adverse Action or Adverse Action Letter via the QuickView email process, your applicant will receive an email that looks like this:



The applicant will click on the View Message button and be taken to our secure site to verify their identity before viewing the letter and a copy of their report. The verification system consists of the applicant's current zip code and the last four digits of their SSN.



The applicant may make three attempts at the verification. If they fail all three, they will be invited to contact our support team so we can try and help them. Their report will also be sent to your **Disclosures Queue** if they fail. If it is re-emailed it will be automatically removed, but because of this it's important to keep an eye on that Queue. If you hover over the Reports Tab, you'll be able to see if there are any reports waiting there for you.



We've found that most applicants who receive these QuickView emails activate and view them, but occasionally we've seen applicants click the "Decline" button. If they do, the report will again be moved to the Disclosures Queue.

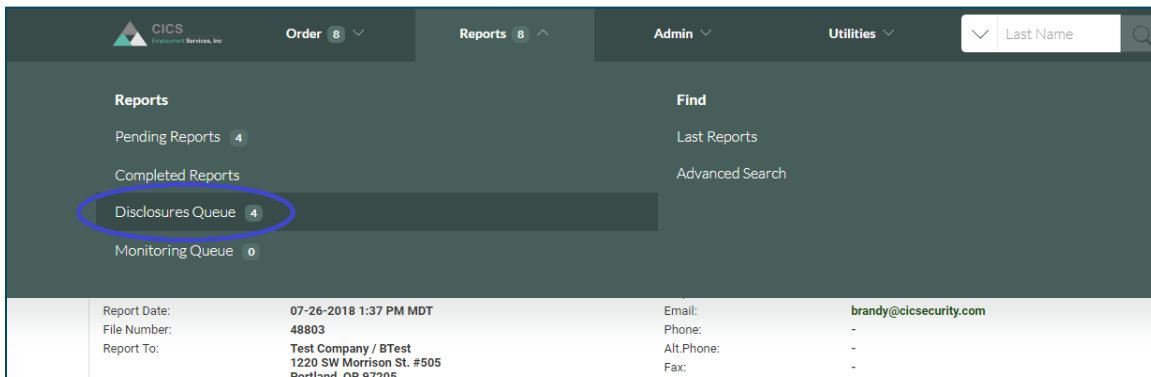
After a QuickView email sits unopened for a week, it will "expire". If the applicant tries to click on it after it expires, it will give them your contact info as well as ours (it looks very similar to the notice above). The system will then, once again, move the report to the Disclosures Queue and you will need to decide how to deal with it. You can resend it via QuickView, Print and Mail it, or whatever your legal council says needs to be done. But if you see it in the Disclosures Queue after you've sent it, that may be the reason why.

Even more reason to keep an eye on the Disclosures Queue if you're using QuickView!

VIEWING / PRINTING / MAILING LETTERS VIA THE DISCLOSURES QUEUE

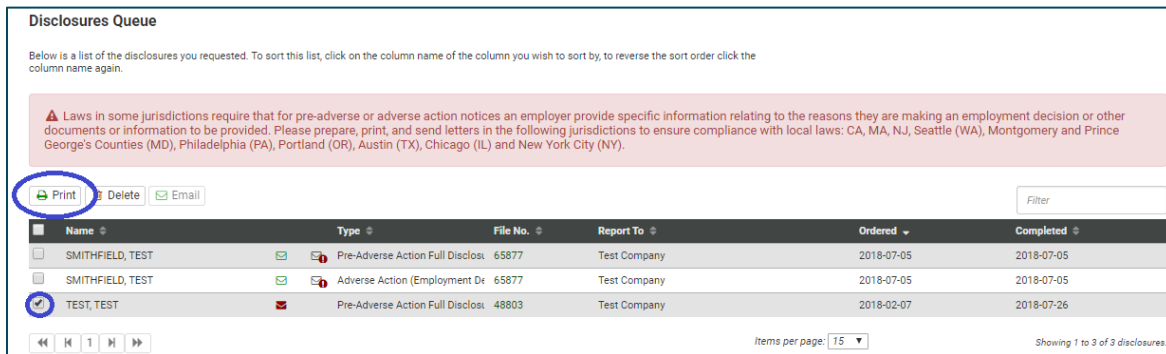
Your **Disclosures Queue** is where letters get sent to be printed if you don't have an email address for the applicant. As mentioned elsewhere in this guide, they can also be sent there if the applicant either fails the QuickView verification process, if the applicant "Declines" online viewing of it, if it expires because the applicant never opened it, or if the email address provided was not a valid, working email address. Here's how to deal with reports in this Queue.

Navigate to the Disclosures Queue under the Report tab.



The screenshot shows the CICS Reports dashboard. The 'Reports' tab is active, and the 'Disclosures Queue' is highlighted with a blue circle. The dashboard includes navigation menus for Order, Reports, Admin, and Utilities, along with a search bar for 'Last Name'. Below the navigation, there are sections for 'Reports' (Pending, Completed, Disclosures Queue, Monitoring) and 'Find' (Last Reports, Advanced Search). A detailed report card is visible at the bottom, showing report date, file number, report to, email, phone, alt phone, and fax.

Use the print function to take care of several of them at once.



The screenshot shows the 'Disclosures Queue' interface. It includes a warning message about laws in various jurisdictions requiring specific information for pre-adverse or adverse action notices. Below the message, there are buttons for 'Print', 'Delete', and 'Email'. A table lists the disclosures with columns for Name, Type, File No., Report To, Ordered, and Completed. The 'TEST, TEST' entry is selected, and the 'Print' button is highlighted with a blue circle. The interface also shows pagination controls and a filter box.

We've found that #10 envelopes work well with the address placement if you have to print and mail these.

RECEIVE AN EMAIL REMINDER TO SEND ADVERSE NOTIFICATION SETTINGS

The FCRA says that you must send a Pre Adverse Action Letter at least five days before you send the final Adverse Action Letter.

We can set up an automatic reminder email to prompt you to send the Adverse Action Letter a set number of days after you've sent the Pre-Adverse Action Letter. We can set the reminder to be emailed to whoever you like and to be sent however many days after the Pre Adverse works best for you. Some clients like to wait longer than five days, others want to get the final letter out as quickly as possible. Contact us to have us set that up for your account!

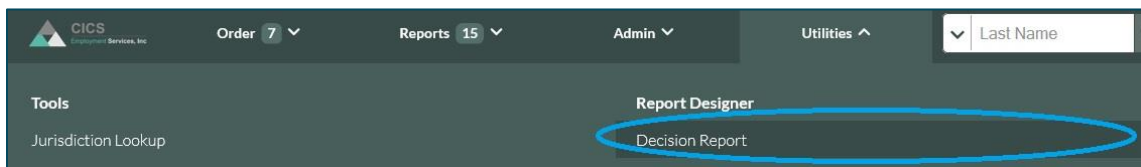
This is what the reminder email looks like:

This email is to remind you to send the Adverse Action letter per your account settings.

Applicant: TEST TEST
File: 48803

KEEPING TRACK OF WHAT YOU'VE SENT WITH THE DECISION REPORT

Lastly, if you'd like to review all the QuickView activity across your account so that you can document your correspondence, simply log into your account and navigate up to the "**Utilities**" tab.



You should see a section called "**Decision Report**" which, when selected, will give you a search tool to review your whole account.

Decision Report template provides a list of decisions made on reports within a selected date range and the history of those decisions for a specific client and its sub-clients, if applicable.

* Order Completed Date: to

Search By: Complete Date
 Decision Date

Decisions:

- All Decisions
- Approved (per client specifications)
- Approved
- Pending (per client specifications)

Export Data

| Client Code | Client Name | File Number | Applicant Name | Decision | Product Name | DOB |
|---|--------------|-------------|--------------------|--|---|------------|
| BTest | Test Company | 140260 | DEMO, TEST | | Supplementary A La Carte Services with State search TEST ONLY | 01-01-XXXX |
| BTest | Test Company | 140767 | TESTERSON, TEST T. | Pre-Adverse (Send Pre-Adverse Action Notice) | Supplementary A La Carte Services with State search TEST ONLY | 01-01-XXXX |
| 03-09-2020 2:56 PM MDT Alex Ward: Report Decision set to 'Pre-Adverse (Send Pre-Adverse Action Notice)'. | | | | | | |
| 03-06-2020 11:25 AM MST: QuickView is not active. Sent to the Disclosure Queue to be manually printed and delivered. | | | | | | |
| 03-06-2020 11:25 AM MST: A user at IP address 73.11.47.109 requested the Consumer Copy be postal mailed. | | | | | | |
| 03-06-2020 11:23 AM MST Alex Ward: A QuickView™ email for Consumer Copy was sent to ALEX@CICSECURITY.COM. | | | | | | |
| BTest | Test Company | 141036 | TEST, TEST T. | Declined (Send Adverse Action Notice) | Supplementary A La Carte Services with State search TEST ONLY | 01-01-XXXX |
| 03-09-2020 3:26 PM MDT Alex Ward: Report Decision set to 'Declined (Send Adverse Action Notice)'. | | | | | | |
| 03-09-2020 3:26 PM MDT Alex Ward: A QuickView™ email for Adverse Action (Employment Denial Editable) was sent to ALEX@CICSECURITY.COM. | | | | | | |

If you don't see this report option under your **"Utilities"** tab, give us a call and we can activate it for your user ID.

More features are being added all the time, we'll keep you updated on new tools as they're released. As always, check with your legal counsel before using our templates or setting up an internal protocol for this or any other regulatory responsibility. This feature doesn't do it all for you, you'll still need to be engaged in the process. Also be aware of local laws and regulations that may make using some of these features trickier. Please feel free to contact us if you have any questions!

CICS Customer Support Team
help@cics.team
800-660-0507 x 1