



I-9 Compliance - 2013 Updates & Planning Items

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Since 1986, the U.S. has placed upon employers the burden of acting as gate-keepers in the enforcement of the immigration laws. The government's policies view employers as "magnets," and the primary root cause of illegal immigration. The I-9 Form, deceptively simple in appearance, creates numerous and complex compliance issues for employers. I-9 enforcement is not primarily concerned with locating illegal workers with the goal of deporting them. Instead, I-9 enforcement is heavily focused on Form I-9 itself, and the employer's strict accuracy in completing the form and complying with related regulations in assembling its workforce. Thus, employers who do not dot every "i" and cross every "t" in strict compliance with U.S. Immigration and Customs Enforcement (ICE)'s exacting standards are at risk for penalties, regardless of whether any unlawful employment exists!

As we begin 2013, here are some updates and reminders for your consideration:

NEW PROPOSED FORM I-9

U.S. Citizenship and Immigration Services (USCIS) has proposed a new and updated version of Form I-9, which is intended to be more explicit, detailed, and user-friendly. USCIS has received numerous comments from stakeholders in response to these changes. The new Form is expected to be released soon.

ENFORCEMENT ACTIVITY CONTINUES TO INCREASE

I-9 audits, assessment of fines, and charging of criminal penalties by ICE continues to increase, and has increased dramatically since fiscal year 2007.

INTERNAL I-9 COMPLIANCE POLICY

Every employer should have a formal internal I-9 Compliance Policy detailing the employer's exact policies and procedures for properly completing, verifying and retaining I-9 and employment authorization

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PRACTICE AREAS

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documentation, for assigning supervisory responsibility within the company for these duties, for ensuring adequate training of I-9 responsible employees, and for self-audits or other periodic internal monitoring efforts to ensure compliance. The best defense and response to an I-9 Audit or ICE investigation is documentation establishing the employer's consistent pattern of responsible good faith efforts to maintain an I-9 compliant workforce.

CONDUCT AN I-9 SELF-AUDIT

Once an employer has its compliance policy in place, it should promptly conduct its initial self-audit, guided by its attorney. If an employer has a good compliance policy in place and has processed self-audits before, this is typically a good time of year to engage in an annual review and self-audit.

The experienced immigration and employment attorneys at Foster Swift welcome an opportunity to discuss a comprehensive approach to your agricultural business.

