

IMMIGRATION NEWS

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Framework for Comprehensive Immigration Reform

On January 28, 2013, a bipartisan group of eight senators, four Democrats and four Republicans, released a "framework" of principles for immigration reform legislation which they hope will be introduced in Congress in the next few months. The four "pillars" of the plan include:

- A "tough" but fair path to citizenship;
- Changing the immigration system to better recognize the importance of characteristics that will build the American economy and strengthen American families;

- An effective employment verification system that will prevent identity theft and end the hiring of future unauthorized workers; and
- An improved process for admitting future workers to serve our nation's workforce needs, while simultaneously protecting all workers.

This framework provides that those currently in the country illegally would be provided a pathway to citizenship after paying fines and taxes, passing a background check, and meeting other requirements. Increased border security and mandatory E-Verify for all employers is also



The President supports the bipartisan framework for immigration reform.

contemplated in the framework.

We will closely monitor any legislation and update our clients in future newsletters and on our website and our Facebook page.

USCIS Issues Over 150,000 DACA Approvals

On January 17, 2013, the United States Citizenship and Immigration Services ("USCIS") announced that it had issued 154,404 approvals for the Deferred Action for Childhood Arrivals program ("DACA"). Since

the program began in August, 2012 over 400,00 applications have been received by USCIS.

The program defers deportation and grants work authorization to young, undocumented immi-

grants who came to the country as children and who meet certain criteria. The program is ongoing and anyone who believes they may be eligible to apply can contact our office for details on eligibility requirements.

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I-9/E-VERIFY SERVICES:

- I-9 and E-Verify training
- I-9 audits (review of each I-9, identifying errors and how to correct them, detailed report on audit results and suggested remedial measures)
- Review or preparation of I-9 and E-Verify compliance policies and procedures
- Consultation during IMAGE certification process

ICE Expected to Issue I-9 Rule in 2013



ICE expects to issue a rule with substantive violations on the Form I-9 sometime in 2013

Immigration and Customs Enforcement ("ICE") has said that it will issue a proposed rule in 2013 which will clarify what is a substantive violation on the Form I-9 and what is a technical or procedural violation. This is extremely important for employers because substantive violations are subject to immediate fines. Form I-9s with technical or procedural violations are re-

turned to the employer, who in turn has 10 days to correct the errors and return the I-9s to ICE to be re-reviewed.

Currently, there is no written policy on this issue that is available to the public and there is often inconsistencies in ICE I-9 audits in identifying substantive versus technical violations. The new rule will make it easier for employers to provide

training to employees who handle the completion of Form I-9. It will also make corrections easier when a company has an internal or third party I-9 audit done.

This is particularly important given that ICE is expected to continue its increased enforcement of Form I-9 compliance with a heightened number of I-9 audits this Fiscal Year.

Home Health Care Provider Settles With DOJ Over I-9 Discrimination Charges

"The company was required to pay over \$48,000 in civil penalties and back pay to victims."

A home health care provider based in Hackensack, N.J. settled with the Department of Justice ("DOJ") over claims that it required employees who were lawful permanent residents to provide different documentation during the employment verification process. The DOJ established that the company required lawful permanent residents to un-

dergo independent verification of their social security number, outside of the normal I-9 and E-Verify verification process.

As part of the settlement process, the company was required to pay over \$48,000 in civil penalties and back pay to victims. The company was also required to train its human resource staff on

proper I-9 compliance procedures.

This case underscores the importance to all businesses of proper training for its staff on completing the Form I-9, including the anti-discrimination provisions. Our firm can provide I-9 training for your company. Contact our office for more information.

HR Professionals—SHRM Conference Schedule



Mark your calendar and visit our firm's exhibit booth at the upcoming SHRM conferences.

Our firm will have an exhibit booth at many of the upcoming SHRM Conferences. Please stop by and visit with us for a few minutes and get some materials detailing all of our current services. We would love to talk with you about how we can assist you with your I-9 and E-Verify issues.

You can find our firm's exhibit booth at the following conferences:

- Louisiana State SHRM Conference—Baton Rouge—April 8 and 9.
- Mississippi State SHRM Conference—Biloxi—May 1 and 2.
- ICHRMA Conference—

Lake Charles—May 10.

- Alabama State SHRM Conference—Birmingham—May 14 and 15.

If you will be attending any of these conferences, please stop by our booth, say hello and take a chance on our door prize.

USCIS Launches E-Verify Employers Search Tool

On December 19, 2012, the United States Citizenship and Immigration Services ("USCIS") announced that it has launched the E-Verify Employers Search Tool, an online resource that allows users to find employers currently enrolled in the federal electronic employment eligibility verification program.

According to USCIS, the new tool replaces the pre-

vious list of E-Verify enrolled employers and federal contractors on the agency's E-Verify website. The new tool allows users to search, filter, sort and export employer results and view employer information by name, state, city, zip code and workforce size.

The site includes information such as business name used during E-Verify registration, which can be

the legal name of the business or an individual, a trade name, or an abbreviation; whether the business is a federal contractor; and whether the federal contractor uses E-Verify for all new hires or the entire workforce.

The Employers Search Tool can be found through USCIS's E-Verify website.



E-Verify has implemented a new search tool for locating employers who use E-Verify. It can be found on the E-Verify website.

Fiscal Year 2014 H-1B Quota Expected to Fill Quickly

Employers who want to file for a Fiscal Year 2014 H-1B visa need to be aware that it is anticipated that the quota will fill quickly this year.

The earliest effective date for a FY 2014 H-1B is October 1, 2013, which is the first day of the U.S. government's new fiscal year. Employers may begin filing for FY 2014 H-

1B visas as early as April 1, 2013. There are 65,000 H-1B visas available and an additional 20,000 visas for beneficiaries who have obtained a Masters Degree or higher at a U.S. institution of higher education.

Last year the quota filled on June 11, 2012. Improvements in the economy and the number of

OPT holders who have used their 17 month STEM extension have caused practitioners to believe that the quota will fill more quickly this year.

If you have an employee or potential employee for whom you want a FY 2014 H-1B, you should contact our office immediately to discuss beginning the H-1B process.

Employers
can file a
petition for a
Fiscal Year
2014 H-1B
visa on April
1, 2013.

USCIS Implements Immigrant Fee

The United States Citizenship and Immigration Services ("USCIS") has begun collecting a \$165 processing fee from individuals who receive permanent visas from the State Department, including employment-based visas, in order to cover the cost of processing done in the United States. This fee

went into effect on February 1, 2013.

Individuals who consular process for their green card will be provided a packet containing their alien number and case number, as well as information on how to pay the fee. The fee must be paid online.

The fee must be paid before the person departs for the United States or they could be denied admission or have their permanent resident status revoked. The fee covers the cost of producing and mailing the green card to the individual once they enter the United States.



USCIS has begun charging \$165 to individuals who consular process for their green card.

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***Specializing in employment
and family-based Immigration
and Nationality law.***

***I-9 and E-Verify compliance
and training.***

Just a Note...

We are expecting to see Congress spending much of 2013 dealing with Comprehensive Immigration Reform. Some of the concepts that are being floated around include increasing the green card quota for family-based and employment-based immigrant visas, mandatory E-Verify for employers in all states, a pathway to permanent residence and then citizenship for undocumented workers and changes to some of the work visa programs. These potential changes could impact individuals and businesses alike.

In addition, regardless of Comprehensive Immigration Reform we are expecting the H-1B quota to fill quickly this year and we are anticipating a new Form I-9 to be released.

We will monitor all of these changes carefully and keep you informed via newsletters, emails and our website and Facebook page. Let us know if you have any questions or if we can help you in any way with any of your immigration or I-9/E-Verify matters.

Patricia

Good Risk Management Includes Proper I-9 Compliance



Good risk management requires management to implement proper Form I-9 compliance procedures.

If asked, most business owners would say that immigration law plays no part at all in their business. However, if they employ anyone, then immigration law directly affects their business. This is because every employer must comply with the employment eligibility verification provi-

sions of the Immigration and Nationality Act ("INA"). Business owners, executives and human resource managers are often unaware of the specific, detailed regulations that govern how and when a Form I-9 must be completed, maintained and destroyed. Most people who complete the Form I-9 have never read the 69 page manual that accompanies it.

Form I-9 compliance has become an important part of every business's risk management because a government policy change in April, 2008 instituted random audits of businesses for I-9 compliance. Now businesses of all sizes and industries are subject to

random I-9 audits and thousands of these audits are done each year.

With fines for noncompliance generally ranging between \$935 and \$1100 **per Form I-9**, businesses must make I-9 compliance part of their risk management assessment. Proper I-9 training, an audit of I-9s by an experienced third party, a written I-9 and E-Verify compliance policy, and written policies for employment eligibility compliance for any of the business's subcontractors are critical to reducing or eliminating a company's potential exposure to substantial fines in the event of an I-9 audit.