

# Immigration News

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## New I-9 Center Built in VA

Immigration and Customs Enforcement (“ICE”) announced the opening of its new Employment Compliance Enforcement Center. The Center is located in Crystal City, Virginia near ICE’s headquarters.

The new Center allows ICE to more easily conduct I-9 audits, especially of larger companies. The Center is staffed by 15 forensic auditors who will assist local field auditors’ offices around the country expedite I-9 audits.

John Morton, chief of ICE, said the Center would “address a need to conduct audits even of the largest employers with a very large

number of employees.”

Fiscal year 2010 was a record setting year of Form I-9 enforcement penalties with approximately \$7 million in fines levied, compared to just \$1 million in fiscal year 2009.

The establishment of the new Center will likely produce another record year of Form I-9 audits and penalties in Fiscal Year 2011, including penalties against larger organizations that had not been previously targeted. ICE has stated that with the building of the new Center that it would not be limited by the size of the company when conducting I-9 audits.



**New I-9 Center  
will facilitate  
more I-9 audits  
by ICE.**

## Change of Address Notices Have New Filing Location

Effective April 1, 2011, all change of address submissions (Form AR-11 and Form AR-11 SR) need to be mailed to a new address.

Anyone who is not a US citizen (unless in A or G status), including Lawful Permanent Resident (LPR

or Green Card) aliens, must report address changes to the USCIS within 10 days or less.

The new address is: DHS/USCIS, Harrisonburg File Storage Facility, Attn: AR-11, 1344 Pleasants Drive, Harrisonburg, VA 22801.

Foreign nationals can also notify USCIS of their change of address online via the following link:

<https://egov.uscis.gov/crisgwi/go?action=coa>.

### Our Firm Can Assist You With:

- ◆ Employment based immigrant and nonimmigrant petitions
- ◆ Family based immigrant petitions
- ◆ Naturalization applications
- ◆ Follow up with USCIS on pending petitions
- ◆ I-9, LCA and PERM audits
- ◆ Employment authorization and advance parole extensions
- ◆ Form I-9 training for HR staff and review or drafting of I-9 compliance procedures

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## Resumption of SSA No Match Letters



The Social Security Administration has resumed sending "No Match" letters to employers.

After a long hiatus, the Social Security Administration ("SSA") has resumed sending "No Match" letters that advise employers that their workers are using a social security number ("SSN") that does not coincide with SSA's records.

As a result of litigation related to the "No Match" letters, the letters currently being sent out identify only one employee per letter. Also,

these letters no longer contain the language that states that failure to act upon the "No Match" letter could be construed as constructive knowledge of knowingly continuing to employ unauthorized workers, based on the totality of the circumstances.

Nonetheless, employers who receive such letters need to confirm that they have been reporting the correct SSN. If so, the employer must con-

tact the employee and advise him to contact the SSA to resolve the discrepancy. Current guidance suggests that 120 days is an appropriate period of time to allow the employee to resolve the issue.

Employers who receive "No Match" letters should document their efforts to resolve the matter with the employee since "No Match" letters are now being requested as part of ICE I-9 audits.

## FDNS Provides Site Visit Statistics

On June 7, 2011 the USCIS Fraud Detection & National Security (FDNS) provided information on the status of its administrative site visit and verification program. This program conducts site visits to employers who have petitioned for H-1B employees in order to ascertain whether they are complying with the terms of the H-1B

petition. 14,433 H-1B site visits were conducted in FY 2010. These site visits, plus some carryover work from FY 2009, resulted in the completion of 15,083 compliance reviews during FY 2010.

Eighty-six percent (86%) of the audits resulted in a "verified" status. Of the 14% that were not verified 7% of those resulted in the issuance

of a Notice of Intent to Revoke (NOIR) the H-1B status. In FY 2010, 495 H-1B petitions were revoked following issuance of an NOIR.

In FY 2011 (through March 31, 2011), 139 NOIRs have been issued (which equates to 9% of the audits that resulted in not verified status).

**"In Fiscal Year 2010 495 H-1B petitions were revoked"**

## Beware of Diversity Visa Lottery Scams

The United States Citizenship and Immigration Services ("USCIS") has announced that it has been contacted by many people regarding fraudulent e-mails or letters saying they have been selected in the Diversity Visa Lottery program.

The scammers pose as the U.S. government in an at-

tempt to get money from people hoping to get a visa. USCIS warns that individuals should be very cautious about responding to any suspicious e-mails or letters.

The U.S. Department of State runs the Diversity Visa Lottery Program and has everything applicants need to know about the Diversity

Visa Lottery process on its website. Individuals who have questions about the Diversity Visa Lottery Program should review that website. Further, they should confirm that any communications they receive regarding the Diversity Visa Lottery Program are from the Department of State.

**USCIS announces reports of fraudulent emails and letters on the Diversity Visa Lottery.**

## Immigration Related Discrimination Cases

The Department of Justice (“DOJ”) recently announced the settlement of two immigration related employment discrimination cases.

The first case was with Wendy’s restaurant franchise owners in Maine. This business maintained a policy of refusing to hire workers it believed were non-U.S. citizens even if they possessed valid employment authorization documents.

The second case was with Iflowsoft, LLC, a computer programming service provider in New Jersey. Iflowsoft advertised for IT professionals who were foreign nationals with either an H-1B they could transfer or OPT employment authorization.

Both of these companies violated the Immigration and Nationality Act (“INA”) which prohibits employers from discriminating based on

citizenship during the hiring process.

Both companies were required to pay back pay with interest to potential employees they had discriminated against. They were also required to pay a civil fine and agree to training for its human resource personnel on the INA anti-discrimination provisions and to adopt non-discrimination policies with respect to hiring.



**The DOJ recently settled two immigration related employment discrimination cases.**

## Take Our I-9 Challenge

Businesses that have an I-9 audit average a 70% error rate! How do you think your business would fare in an I-9 audit? Well take our I-9 challenge and find out.

Pick any 15 of your current Form I-9s and our firm will conduct a complete I-9 audit for \$250.00. We will identify all errors on the 15 Form I-9s and will provide you with a

written report outlining the errors, how to correct them and long term remedial measures that can be taken to help eliminate your company’s I-9 issues.

If your business’s I-9s have an error rate of 10% or less we will refund your \$250.00!

This challenge allows businesses of all sizes an afforda-

ble way to test how compliant its I-9s are with federal regulations. Because the fines imposed by ICE can quickly run in the thousands of dollars you want to find out if you have any problems before ICE conducts an audit.

Also check out the I-9 Compliance page on our website for upcoming dates for our I-9 training seminars.

**Businesses that have an I-9 audit average a 70% error rate!**

## E-Verify Self Check for Five States and D.C.

The United States Citizenship and Immigration Services (“USCIS”) has launched the new E-Verify Self Check tool for users in Arizona, Idaho, Colorado, Mississippi, Virginia and Washington, D.C.

E-Verify Self Check is a voluntary web based service that allows employees access to their employment eligibility

status and guidance on how to correct their Social Security Administration and Department of Homeland Security records (if necessary) outside of the hiring process.

The program is free, simple to use and quick according to USCIS and is designed to take the uncertainty out of the employee eligibility pro-

cess for individuals.

The program was developed in response to a congressional mandate to USCIS that it develop “self check” capability for E-Verify as part of its Fiscal Year 2010 budget appropriations for the E-Verify Program. Eventually it is expected to be available to individuals in all 50 states.



**E-Verify Self Check is “free, simple to use and quick” according to USCIS.**

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*Specializing in employment based and  
family based Immigration and  
Nationality law and the general  
representation of small businesses.  
I-9 compliance and training specialists.*

## Just A Note...

Well I hate to use the "H" word, but it is that time of the year again—hurricane season. We have all learned (some of us the hard way!) that it is important to hope for the best, but prepare for the worst. So we want our clients to know that the Bollman Firm has a comprehensive evacuation plan in place. We hope we never need to use it, but if we do, you can be assured that we will be up and running again in a short time period. You should always be able to reach me on email, but you can also check our website which will be updated regularly in the event of an evacuation with contact and other pertinent information.

Here's hoping for a quiet and safe hurricane season.

*Patricia*

## 1000 ICE Audit Notices—Focus on Infrastructure Safety

On June 15, 2011 Immigration and Customs Enforcement ("ICE") issued 1000 Notices of Inspection (NOI) nationwide. The NOIs require the employer to produce all of the business's I-9 records, payroll records, copies of "No Match" letters from the Social Security Administration and E-Verify documentation.

ICE said that the employers targeted were ones whose businesses play a key role in keeping the national infrastructure safe. The 17 sectors singled out for this enforcement action includes those associated with agri-

culture and food, financial services, commercial nuclear reactors, drinking water and water treatment, postal and shipping, healthcare and transportation. According to ICE the inspections were designed to touch on "...employers of all sizes and in every state in the nation, with an emphasis on business related to critical infrastructure and key resources."

This round of NOIs follows the service of 1000 NOIs in February, 2011, bringing the number of I-9 audits in Fiscal Year 2011 to more than 2,300. This surpasses the

number of I-9 audits done in Fiscal Year 2010. With ICE continuing to add resources to its I-9 investigative units, it is anticipated that the number of audits will continue to increase with each Fiscal Year.

Every business should be prepared for an I-9 audit and should be proactive about making certain that its I-9s can pass the scrutiny of an ICE audit. For more information on how our firm can help you with this, check our I-9 Compliance page on our website or contact our office.



**Don't be caught  
unprepared when ICE  
shows up with a  
Notice of Inspection—  
contact our office for  
help preparing for an  
I-9 audit.**