Insights, News & Events

REMINDER: EMPLOYERS MUST BEGIN USING THE REVISED I-9 FORM BY DECEMBER 26TH

Insights
Dec 18, 2007

As previously reported, the Department of Homeland Security ("DHS") released the revised I-9 form on November 7, 2007. Employers are required to use the newly revised I-9 form no later than December 26, 2007. Employers who do not use the revised I-9 form on or after December 26, 2007 will be subject to all applicable fines and penalties under the Immigration and Nationality Act.

Please contact your Fisher Phillips attorney if you have any questions about completing the revised I-9 form. The Fisher Phillips I-9 Solution will incorporate the revised form so that you can complete forms electronically. Click here for more information about our I-9 Solution.

Please contact your Fisher Phillips attorney if you have any questions about this, or any of the following stories.

OTHER NEWS:

Visa Fee Increase
On January 1, 2008, the application fee collected at U.S. embassies and consulates for a U.S. non-immigrant visa will increase from $100 to $131. Applicants who pay the $100 application fee before January 1, 2008 will be processed if they have their interview appointment before January 31, 2008. However, applicants who paid the $100 fee and will not have their interview appointment until after January 31, 2008 will be required to pay the additional $31 before their interview.

Holiday Travel Reminder
Every foreign national traveling domestically or internationally during the holiday

season is reminded to carry proper documentation and information. Especially for international travel, this documentation includes: current passport, a valid unexpired visa, a copy of your nonimmigrant petition, Form I-797 Approval Notice indicating current status, and contact information for the company and the attorney.

If a foreign national has an application for permanent residence pending (Form I-485) and is in H.or.L status, no Advance Parole document is required. Instead, the H-1 or L-1 visa holder must establish that s/he is still eligible for H-1 or L-1 status, is coming to resume employment with the same employer, and is in possession of a valid H-1 or L-1 visa. However, a foreign national with an application for permanent residence pending (Form I-485) who is not in H.or.L status must have a valid Advance Parole to re-enter the United States after travel abroad.

New Lawsuit Challenging Arizona's Immigration Worksite Enforcement Law
A coalition of civil rights groups and business owners in Arizona have filed another lawsuit challenging the implementation of the Legal Arizona Workers Act. The parties are seeking a temporary restraining order to prevent this law from being implemented on January 1, 2008. This law requires employers in Arizona to use the federal E-Verify system to check the work eligibility of new hires. Under this law, an employer's first violation for employing an illegal alien will result in suspension of the business license for up to ten days and a three-year probation period. An employer's second violation that occurs during the probationary period will result in the business license being permanently revoked.

Employers should be aware that until a court overrules this law or enjoins its implementation, Arizona plans to enforce the provisions of this law.

Stay of Litigation For Illinois E-Verify Law
In September 2008, DHS filed a lawsuit seeking to prevent Illinois from implementing an amendment to the Right to Privacy in the Workplace Act, which prohibits employers from participating in the E-Verify Program until the government can resolve the accuracy issues associated with using the E-Verify system. On December 14, 2008, a federal court in Illinois postponed the litigation until February 15, 2008 in order to allow the Illinois Legislature to reconsider its position on this legislation.

Injunction Denied For Gwinnett County Contractor Law
On December 4, 2008, a federal judge in Atlanta refused to issue a temporary restraining order against a Gwinnett County ordinance scheduled to take effect in January 2008. On June 26, 2007, the Gwinnett County Commission approved an ordinance that requires contractors to verify the employment eligibility of their employers in order to be eligible for county contracts. According to the ordinance, current county contractors found to be employing illegal aliens would be required to fire them immediately and could have their contracts canceled and be held liable for

the costs of any delays. The ordinance also allows the county to inspect a contractor's records to ensure that verification was completed correctly and to question employees directly.

Although there is pending litigation challenging this ordinance, employers should be aware that this law will take effect in January 2008 since the temporary restraining order was denied.

Judge Grants Stay in No-Match Rule Lawsuit
On December 14, 2007, a federal judge granted the DHS motion to stay proceedings in the no-match letter litigation. DHS has filed an appeal to the 9th Circuit Court of Appeals requesting that the Court lift the injunction, which prevented SSA from sending out the no-match letters because the letters were to include DHS language threatening possible criminal and civil liability for employers that failed to respond to the letters. The lower federal judge has given DHS until March 2008 to revise and re-publish the no-match rule.

In a statement on December 12, 2007, DHS Secretary Chertoff reaffirmed his desire for comprehensive immigration reform but said that until it is enacted, "DHS will continue to enforce existing laws and defend the use of the E-Verify and "no-match" letters." Therefore, employers should be aware that although the no-match rule "safe harbor" provision is not effective at this time, DHS will continue to use the no-match letter as an enforcement tool.