

How Can HR Stay In Front of Comprehensive Immigration Reform?



On January 29th President Barack Obama announced his open support behind a new comprehensive immigration reform bill. The day before, the new comprehensive immigration reform bill was introduced by a bipartisan group of senators. The group of eight senators, four Democrats and four Republicans, identified broad ways to address the issues facing the country's immigration laws.

The "Gang of Eight," as they are known, identifies four legislative pillars to accomplish their goals. Most notable for the Human Resources industry is the third pillar. The third pillar calls for the federal government to "Create an effective employment verification system that will prevent identity theft and end the hiring of future unauthorized workers...by developing a tough, fair, effective and mandatory employment verification system."

Mandatory? Didn't the federal government try to make the last verification system mandatory? If the federal government is successful this time around, then what will be the impact on HR? Based on the current course and speed of regulatory agencies, most likely, an increase in Form I-9 and E-Verify audits is the answer. Officials from the Department of Homeland Security, employees from the Office of Special Counsel for Immigration-Related Unfair Employment Practices at the Department of Justice (DOJ), and employees from the Department of Labor (DOL) may inspect an employer's Forms I-9.

The USCIS Verification Division reported that over 16,000 E-Verify compliance letters were issued in

2010. 13,000 letters and over 26,000 emails were sent to employers in 2011. Another 23,000 e-mails were sent in the first half of 2012. The agencies aggressive immigration enforcement results show and substantiate the stance taken under the Obama Administration to combat the hiring of unauthorized workers.

So, how can HR stay in front of the Immigration Reform Act? The best course of action for a company to take in order to protect itself is to start with a self-assessment of its historical and current Form I-9 process. This will uncover and address mistakes rather than facing the pressure of an ICE deadline. If you are not already familiar, ICE gives companies 72 hours to prepare for an audit.

Here are five, often overlooked, items that employers should assess to help prepare for an audit.

1. The most current version of the Form I-9 is being used. Look at the revision date of the form. The most recent revision date should read "Rev. 08/07/09 Y."
2. Timely completion. Form I-9's must be completed by the third business day after the date the employee started work for pay.
3. Correcting errors on the Form I-9. If you discover there was an error on the form, then the best way to correct the form is to a.) draw a line through the incorrect information, b.) enter the correct information, c.) initial and date your correction.

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4. Retaining the Form I-9. Employers must keep a copy for the later of 3 years from hire, or 1 year from termination.

5. Storing the Form I-9. You can store Form I-9's and accompanying documentation either by paper or electronically. Either way, the Form I-9 should be kept separate from the entire employee's file, reasonably safeguarded from information being stolen, and readily accessible for inspection.

Another option for employers to consider is adopting an automated Form I-9 system. Automating the Form I-9 process may significantly reduce exposure to error and eliminate the potential for noncompliance. An automated system improves efficiency too with data tracking and document expiration notices.

Automated system can also help converting historical paper I-9's to electronic formats. Converting historical paper I-9's safeguard companies ensuring documents are properly stored. Often, services are available to audit paper I-9 information as it is being converted to electronic format. This enables employers to make corrections before electronically archiving.

Comprehensive Immigration Reform means different things to different people. For employers, it means more scrutiny of their hiring processes. Most employers are aware; their Form I-9 process is not perfect. Form I-9s contain incorrect or missing information. So, with fines ranging from \$110 to \$1,100 per violation, companies must start reviewing their current I-9 processes, performing a self-assessment and planning for the future.



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