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Top 5 Tips for I-9 Compliance

by Michael J. Wildes, Esq.

By now, you know that the U.S. government has been performing widespread investigations and audits of employers to crack down on employment of undocumented noncitizens. You should also be aware that you must maintain Form I-9, an employment authorization verification form issued by the United States Citizenship and Immigration Service (USCIS), for all your workers.

Failure to comply can be a very serious offense that may result in substantial civil or criminal penalties. Here are five steps to avoid that mistake:

1. **Read and refer to the Handbook for Employers (M-274).** The M-274 is published by USCIS to help employers better understand the purpose of the I-9. For a one-page form, the I-9 can be surprisingly confusing. The handbook should answer many of your questions about compliance.
2. **Store your I-9 forms safely.** It is best to keep your I-9 forms in one place—separate from other personnel files—so that sensitive information will not be unnecessarily revealed during an audit.
3. **Perform internal audits regularly.** An internal audit is the best way to detect and correct errors. It may also demonstrate a “good faith effort” that could spare you serious penalties in the event of a government audit.
4. **Avoid employment practices that are considered discriminatory.** Employees must be treated equally regardless of citizenship or immigration status, national origin or native language. Many well-intentioned actions can be considered discriminatory; for example, employers may not ask to see work authorization documents before hiring on the grounds that someone seems “foreign” or is not an American citizen.
5. **When in doubt, consult a professional.** When it comes to I-9s, an ounce of prevention is worth more than a pound of cure. Consulting a professional could spare you hefty fines or even jail time.

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