



American Payroll Association
Government Affairs Task Force – Immigration Subcommittee
Thursday, May 15, 2014 – 6:00 – 7:30 PM
Meeting Agenda

Subcommittee Members

- List of subcommittee members with checkboxes: Susan Baptista, Karen Cole, Emily Lindsay, Carl York, Terri Watkins, Luke Bollinger, Dina Rand, Amy Call, Dave Fowler, Paul Mascazine, Barbara Youngman, John Fay, Linda Papillion, Gordon Middleton, Jerry Jobe, Gretchen Inouye, Shell Wu, Janet Roome, Raeann Hofkin, Michelle Clawson.

DHS (ICE, USCIS)

- List of DHS members with checkboxes: Phillip Warfield (ICE), Fran Hill (USCIS), Yasmeen Pitts-Okeefe (ICE), Yvette LaGonterie (USCIS), Steven Warner (USCIS).

APA Staff

- List of APA staff with checkboxes: Brian O’Laughlin, Mike O’Toole, Curtis Tatum.

Agenda

- Agenda items: I. Attendance: Gretchen; II. Comments/approval of minutes from previous meeting; III. Updates from ICE (a. Not in attendance; b. Provided answers to member questions in Federal Forum sessions, which will be printed in Payroll Currently issue); IV. Updates from USCIS (a. E-Verify Listens - http://www.e-verifylistens.ideascale.com/ (i. What type of suggestions does USCIS want? ii. How often do suggested changes get reviewed by management? iii. Is it beneficial to the group to submit ideas or to submit on these calls? 1. Typically, suggestions made through this website are viewed quicker than general email); b. RIDE Program (i. Any other states intend to join? 1. No, current states are FL, MS, IA, ID); c. E-Verify Connection for April Released).

- i. http://www.uscis.gov/sites/default/files/USCIS/Verification/E-Verify/E-Verify_Native_Documents/Newsletters/E-Verify-Connection.pdf

V. Announcements from Dave and Brian

VI. **Driver authorization cards**

- a. **Some states are issuing driver authorization cards and employers don't have definitive guidance on whether to accept these for verification purposes**
- b. **Office of Special Counsel issued a Technical Assistance Letter (TAL) in February saying the cards do comply as a list B document**
- c. **There is text on some cards that says "Not for ID purposes" so it is confusing for employers**
 - i. **Accepting this could be "constructive knowledge" that the employee is not authorized to work and the employer could be subject to penalties**
- d. **OSC says it will defer to CIS on what is the official rule and CIS has not issued guidance**

VII. **There may be plans to revise the MOUs that were updated in December**

- a. **Current burden on employers listed in the MOUs is that web services users are required to have each user take a test on E-Verify and record the score**
- b. **When using web services, CIS does not know what specific person is using E-Verify and can suspend the wrong users**

VIII. Next Meeting: Tuesday, June 17 at 2:00 ET

USCIS

1. On page 6 of the Handbook for Employers (M-274) Rev. 04/30/2013 N, it states “NOTE: If the employee is a student or exchange visitor who presented a foreign passport with a Form I-94, the employer should also enter the student’s Form I-20 or DS-2019 number (Student and Exchange Visitor Number – SEVIS Number); and the program end date from Form I-20 or DS-2019.”

QUESTIONS:

- a) Does this mean that the employer must a) know that the employee is a student or exchange visitor and that the individual is REQUIRED to present either Form I-20 or DS-2019 with a foreign passport with a Form I-94?
- b) Can the individual present other acceptable documentation for Form I-9?

2. Several states are issuing Driver Authorization Cards, which causes confusion about the document’s acceptability for Form I-9.

QUESTIONS:

- a) Should an employer accept such a document as a List B document when the document says “Not Valid For Identification” or something similar?
- b) Does accepting such a document as a List B document demonstrate constructive knowledge that the individual is not authorized to work?

3. It has come to our attention that E-Verify Monitoring & Compliance is developing a policy for suspension and termination.

QUESTIONS:

- a) What kind of E-Verify violations are being considered as a reason for suspension or termination?
- b) Does the policy consider multiple violations of the same type the same as multiple violations of different types the same?
- c) Are there certain violations that the policy will consider more or less serious?
- d) Does the policy apply suspension or termination at the company, location, and/or individual user level?
- e) When is the policy expected to be posted in the Federal Register for comments?
- f) When is the policy expected to be effective?
- g) Will the policy also be applied to E-Verify employer agents? If so, in what way?
- h) Will the policy hold E-Verify employer agents at fault for the actions of employer customers and their users?

4. The new MOUs that became effective late last year and earlier this year require E-Verify employer agents to train all users on the use of E-Verify, make the users take a quiz of at least 10 questions, and only allow users scoring 70% or greater on the quiz to process E-Verify cases. Employer agents must also train, test, and score users on any E-Verify enhancements and be able to provide such information, upon request. The reason for this is that users of an employer agent’s product using the E-Verify Web Services interface cannot take the E-Verify tutorials.

QUESTIONS:

- a) Will the review of such information be done by E-Verify Monitoring & Compliance as part of the suspension and termination policy?
- b) To comply with this requirement it seems like employer agents will need to incorporate some sort of learning management system (LMS) into their process. This could be a separate web-based product, a custom product, or a manual process, correct?
- c) What are the plans for E-Verify to police this training, quizzing, and documentation requirement?