The Paperwork Trap: Are Your I-9 Forms In Order?

by DAVID ACORD

AS A CONTRACTOR, paperwork is one of your biggest headaches. Every morning a new mountain of invoices, contracts and memos appears on your desk. But chances are one piece of paper – the familiar I-9 form that all new workers must fill out to verify their employment eligibility – rarely crosses your mind. After all, it’s just a simple one-page form, right? How could you possibly mess it up?

Unfortunately, it’s not that difficult. In fact, your staff may have unwittingly been making mistakes with I-9s for years. Small mistakes, to be sure – but in today’s political climate, even the tiniest slip-up could cost your company tens of thousands of dollars in federal fines. That’s because over the past couple of years, the U.S. Immigration and Customs Enforcement Agency (ICE) has become much more aggressive in sending agents to check small firms’ I-9 records and crack down on infractions.

“Most employers will tell me, ‘We know about I-9s, we do our I-9s,’ but they haven’t completed them correctly and appropriately,” said Camille Griffin, president of I-9 Okay LLC (www.i-9okay.com), a Colorado firm that specializes in helping companies comply with I-9 requirements. “I see this happening over and over again. We’ve worked very hard to educate employers on their responsibilities, but it’s been an uphill battle. The last few cases we’ve worked, the average fine has been about $885 per form, per employee. So if you have 100 employees, you can obviously do the math.”

Recently Griffin was hired by a large construction firm with over 200 employees and a sophisticated human resources department. Nevertheless, “We audited 225 of their forms, and only 38 were correct. It wasn’t for lack of trying; they just didn’t get them right.” Part of the problem is that the form looks fairly simple. But Griffin likes to point out that even though the I-9 is just one page in length, the government handbook that goes along with it is 57 pages long. That’s a lot of instructions.

Employers are also seeing a shift in the way the federal government enforces immigration laws. In the past, ICE would often raid large companies and arrest undocumented workers, but such operations were time-consuming and expensive. Now, the emphasis has moved to more general paperwork compliance – sifting through a company’s files with a fine-toothed comb to make sure it has correctly verified the identity and eligibility of every single person hired over a period of several years, regardless of nationality or citizenship status.

“I see them really going after small- and medium-sized businesses now,” Griffin said. “ICE knows that most of these companies don’t have a lot of fighting power or a corporate counsel on staff, so most of them are just going to pay the fines.”

So what problems should you be on the lookout for? Some of the most common mistakes on I-9 forms include:

1. Failing to complete the form within three business days of hire. This violation will garner the maximum fine – usually no less than $850 per form, and sometimes as much as $1,100 per form.

2. Failing to accurately complete the document list in Section 2. This is the section where information from the employee’s form of I.D. is supposed to be logged in. Often employers will leave this section blank, reasoning that since a photocopy of the I.D. will be stapled to the form anyway, there’s no need to fill in the information. Wrong!

3. Failing to put the date of hire in the certification area in Section 2. At the bottom of the section is a certification statement in bold print. Within that statement is a tiny blank line where the employer must fill in the date the worker was hired. Many employers miss this.

Griffin urges employers to rethink their approach to I-9 forms. “This is as big a liability, and in some cases even bigger, than a company’s tax liability,” she said. “Give it the attention it deserves.”