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## E-Verify, No-Match Letters, and I-9 Audits

On July 8, 2009, Secretary Janet Napolitano of the Department of Homeland Security (DHS) announced the administration's support for a regulation that will award federal contracts only to employers who use E-Verify to check employee work authorization. The regulation will be fully implemented only after it is reviewed by the administration, but the current plan is to apply the rule to federal solicitations and contract awards government-wide starting on September 8, 2009. Furthermore, an amendment to the Homeland Security spending bill was passed in the Senate which would allow employers to use E-verify to check the workplace eligibility of all employees, not just new hires as is currently the case.

The Secretary also announced DHS' intention to rescind the No-Match regulations which set forth steps employers must take upon receiving a no-match letter. After the regulations were passed in 2007, an injunction in federal court soon thereafter prevented their taking effect. A short time after the Secretary announced the intention to rescind the No-Match regulations, however, an amendment was passed in the Senate allowing the Social Security Administration (SSA) to send no-match letters to employers if an employee's name or social security number does not match the SSA's information.

Additionally, the administration proved that it is serious about I-9 audits when it issued Notices of Inspection to 652 businesses in one day. This is compared to the 508 Notices which were served in all of 2008. The administration has announced that it will be more focused on audits and civil penalties for employers rather than raids and criminal penalties for illegal workers. This change in focus from the illegal worker to the employer who hires illegal workers is a significant departure from the previous administration.

As both houses of Congress are continuing to debate immigration laws, the regulations and amendments can quickly change. If you have questions regarding E-Verify, No-Match letters, or I-9 audits, please contact Bert Guy, Tom Scroggins, or Brooke Nixon at (205) 633-0200.

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