ALERT
JANUARY 30, 2009

LABOR AND EMPLOYMENT
News Concerning
Recent Labor and Employment Issues

COZEN O'CONNOR
www.cozen.com

NEW I-9 FORM REQUIRED STARTING FEBRUARY 2ND, 2009

Elena Park • 610.941.2359 • *epark@cozen.com*

Starting on February 2nd, 2009, employers will have to use the new I-9 Employment Verification form (edition date February 2, 2009). On that date, employers must use the revised I-9 form and instructions for all new hires. There is no requirement that existing I-9 forms for current employees be replaced with the new version of the form. However, employers must be sure to use the new form for new employees and reverifying employment authorization from February 2 on.

By way of background: the I-9 Employment Verification form must be filled out within the first three days of employment for every employee hired on or after November 7th, 1986. The I-9 form must also be completed for reverification purposes for employees whose initial authorizations have termination dates. All I-9 forms must be kept on file three years after hire or one year after termination, whichever is later. In 1997, the number of documents that could be presented for employment verification purposes was reduced and revised. Again in 2007, the Department of Homeland Security revised the form, eliminating certain documents listed in the instructions that were no longer acceptable.

The new 02/02/09 I-9 form makes additional changes to the list of acceptable documents for verification, and makes technical changes throughout. Among the more noteworthy revisions:

- Expired U.S. passports and List B (Identification) documents are no longer acceptable;
- Forms I-688, I-688A, and I-688B Temporary Resident/ Employment Authorization Documents are no longer acceptable documents under List A;
- Form I-94A is another form of I-94, and is acceptable along with a foreign passport and proper annotations under List A;
- Social Security Account Number Card is an acceptable List C document, as long as it does not specify on its face that the issuance of the card does not authorize employment in the United States.

The new form can be identified by "Form I-9 (Rev. 02/02/09) N." at the bottom right-hand corner of each page.

Employers are reminded that failing to complete I-9 forms, or improperly filling out these forms, can subject them to fines and penalties. With increased worksite enforcement and stiffer sanctions for hiring unlawful workers, proper employment verification is an absolute must. Best practices in this regard include:

- Obtaining copies of the new I-9, instructions and Employer Handbook (M-274) immediately (go to www.uscis.gov and click on "Forms");
- Continuing to complete and sign I-9 forms for each employee hired after 11/06/1986;
- Maintaining I-9 forms and copies of documents, if any, 3 years after hire or 1 year after termination, whenever is later;
- Performing internal audits of I-9 files;
- Providing human resources and other hiring officials with updated employment verification training.

If you have any questions regarding immigration issues, please contact Elena Park (epark@cozen.com or 610.941.2359) or another attorney in our Labor and Employment Law Practice Group.

© 2009 Cozen O'Connor. All Rights Reserved. Comments in the Cozen O'Connor Alert are not intended to provide legal advice. The analysis, conclusions, and/or views expressed herein do not necessarily represent the position of the law firm of Cozen O'Connor or any of its employees, or the opinion of any current or former client of Cozen O'Connor. Readers should not act or rely on information in the Alert without seeking specific legal advice from Cozen O'Connor on matters which concern them.