



U.S. Department of Justice
Civil Rights Division

*Office of Special Counsel for Immigration Related
Unfair Employment Practices - NYA
950 Pennsylvania Avenue, NW
Washington, DC 20530*

MAR 17 2010

Sent by First Class Mail and Electronic Mail (MRunde@hmrvisa.com)

Michael C. Runde, Esquire
Hochstatter, McCarthy, Rivas & Runde, S.C.
5555 North Port Washington Road, Suite 300
Milwaukee, WI 53217

Re: Request for Guidance on Federal Contractor Obligations

Dear Mr. Runde:

Thank you for contacting the Office of Special Counsel for Immigration-Related Unfair Employment Practices ("OSC"). In your email of February 17, 2010, you ask for guidance on a federal contractor's obligations with respect to relying on a previously completed Form I-9 for running an existing employee through E-Verify.

This office cannot give you an advisory opinion on any set of facts involving a particular individual or company. However, we can provide some general guidelines regarding compliance with the anti-discrimination provision of the Immigration and Nationality Act ("INA").

As you know, OSC enforces the anti-discrimination provision of the INA. The anti-discrimination provision prohibits four types of unlawful conduct: (1) citizenship or immigration status discrimination with respect to hiring, firing, and recruitment or referral for a fee; (2) national origin discrimination with respect to hiring, firing, and recruitment or referral for a fee; (3) discriminatory documentary practices during the employment eligibility verification (Form I-9) process ("document abuse"); and (4) retaliation for filing a charge or asserting rights under the anti-discrimination provision.

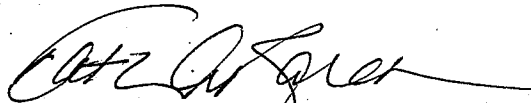
Your email seeks clarification about language in the E-Verify Memorandum of Understanding and in the Supplemental Guide for Federal Contractors about when a federal contractor may rely on a previously completed Form I-9 to run an E-Verify query. Because OSC does not administer the Federal Acquisition Regulation or the E-Verify program, we cannot respond to the specific questions in your letter. However, we contacted U.S. Citizenship and Immigration Services ("USCIS"), the component of the U.S. Department of Homeland Security that administers E-Verify, and USCIS recommends that you direct your questions to E-Verify

Customer Support at 1-888-464-4218.

To prevent a violation of the anti-discrimination provision in the use of E-Verify, OSC encourages employers to take steps to ensure that the verification process is implemented in a non-discriminatory manner. Accordingly, in the course of determining whether a previously completed Form I-9 may be used to run an E-Verify query, a federal contractor must be careful not to treat employees differently based on their national origin or citizenship or immigration status.

For further information on the INA's anti-discrimination provision, please feel free to consult OSC's website at <http://www.justice.gov/crt/osc/>, or call OSC at 1-800-255-8155.

Sincerely,

A handwritten signature in black ink, appearing to read 'Katherine A. Baldwin', written in a cursive style.

Katherine A. Baldwin
Deputy Special Counsel