



U.S. Department of Justice
Civil Rights Division

Office of Special Counsel for Immigration-Related
Unfair Employment Practices - NYA
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Washington, DC 20530
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Via E-mail (dfazio@wsfb.com)

July 22, 2010

Dan Fazio
Director of Employer Services
Washington Farm Bureau
975 Carpenter Road, NE
Lacey, WA 98516

Re: Use of I-9 by State Agencies

Dear Mr. Fazio,

Thank you for your June 3, 2010, e-mail inquiry to the Office of Special Counsel for Immigration-Related Unfair Employment Practices ("OSC"). In your email, you state that the Washington state welfare agency is contacting employers to request I-9 Forms for certain workers who have applied for assistance. Accordingly, you ask whether "employers should be providing I-9s to any state agency that asks" and for advice on how to "proceed on this issue."

As you may know, OSC investigates allegations of national origin and citizenship status discrimination in the workplace, as well as discrimination in the employment eligibility verification process ("document abuse") and retaliation under the anti-discrimination provision of the Immigration and Nationality Act ("INA"), 8 U.S.C. §1324b.

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 INA.

In general, federal regulations require employers to complete an I-9 Form for any individual the employer "hires or recruits or refers for a fee." 8 C.F.R. §274a.2(b). While officials from DHS, OSC and the U.S. Department of Labor have a statutory right to inspect an employers I-9 Forms under 8 U.S.C. §1324a(b)(3), the statute does not authorize any other entity to have such access. Moreover, the statute specifically notes that I-9 Forms "may not be used for purposes other than for enforcement of [the Immigration and Nationality Act and certain provisions of federal criminal law]. See 8 U.S.C. §1324a(b)(5).

For more information regarding the disclosure of I-9 Forms, you may call the USCIS customer service hotline at (800) 375-5283, or you may visit the USCIS website at www.uscis.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Katherine A. Baldwin". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Katherine A. Baldwin
Deputy Special Counsel