

in this issue:

SEPTEMBER 2005

The Department of Homeland Security issued a press release stating it will temporarily relax the I-9 standards against employers for hiring individuals evacuated or displaced as a result of Hurricane Katrina otherwise eligible for employment but who currently lack personal documents.

Department of Homeland Security Temporarily Relaxes I-9 Documentation Standards for Hiring Hurricane Victims

By Susan A. P. Woodhouse

Recognizing that many displaced persons in the Hurricane Katrina affected regions are likely not to have access to their social security numbers, work authorization documents or even their drivers' licenses, the Department of Homeland Security (DHS) issued a press release today indicating that it will not sanction employers for hiring victims of Hurricane Katrina who, at this time, are unable to provide documentation normally required under Section 274A of the Immigration and Nationality Act. The following text and information was taken from the DHS September 6, 2005 press release.

DHS will not bring sanction actions against employers for hiring individuals evacuated or displaced as a result of Hurricane Katrina otherwise eligible for employment but who currently lack personal documents. Under Section 274A of the Immigration and Nationality Act, employers in the United States are responsible for completing and retaining Employment Eligibility Verification (I-9) Forms for individuals they hire for employment. The I-9 form requires employers to verify employment eligibility and establish identity through original documents presented by the employee. For victims of Hurricane Katrina, many individuals lack these documents as a result of being evacuated from their homes, loss or damage to personal items and records,

and ongoing displacement in shelters and temporary housing. Additionally, as a result of the widespread damage and destruction to government facilities in the area affected by the hurricane it can be expected that many victims will be unable to apply and receive new documents in the period of time required by the employment verification rules.

Therefore, the DHS stated in its press release that it "will refrain from initiating employer sanction enforcement actions for the next 45 days for civil violations, under Section 274A of the Immigration and Nationality Act, with regard to individuals who are currently unable to provide identity and eligibility documents as a result of the hurricane." However, employers must still complete the Employment Eligibility Verification (I-9) Form as much as possible but should note that the documentation normally required is not available due to the events involving Hurricane Katrina. At the end of 45 days, the DHS has stated that it will review this policy and make further recommendations.

Susan A. P. Woodhouse is an attorney, and the Senior Knowledge Manager in Littler Mendelson's Knowledge Management Department, in Littler's San Francisco, CA office. She may be reached at swoodhouse@littler.com.
