



HR CORNER

FEES & BURGESS, P. C.



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DHS Announces Enhanced Audit Procedures

Fees & Burgess, P.C.,

The Department of Homeland Security (DHS) is increasing its efforts to investigate and punish employers who violate employment eligibility verification laws. With this trend, DHS is moving its focus on illegal immigration issues from individual liability to employer liability. DHS issued 1,000 Notice of Inspections in November of this year to employers who may receive on-site audits. The agency notes that these businesses were selected intentionally based on various factors including investigative information. In addition, certain businesses involved in public safety or national security industries were selected. As a part of these on-site audits, employers should be prepared for an audit of the company's I-9 forms. DHS plans to enforce both civil penalties and potentially collect information for criminal penalties regarding illegal employment. Employers should note that the standard for liability is a "knowing" standard, meaning that even unintentional violations of immigration laws may be punishable if the employer knew or should have known about the violations. In the agency's official press release, an associate secretary for the agency notes that "ICE is focused on finding and penalizing employers who believe they can unfairly get ahead by cultivating illegal workplaces . . . and [the agency is] increasing criminal and civil enforcement of immigration-related employment laws and imposing smart, tough employer sanctions to even the playing field for employers who play by the rules."

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To prepare for these audits, employers are encouraged to conduct an internal I-9 review to find out whether it has missing or incomplete documents, prior to review by DHS. By preparing in this way, employers can try to address any open issues, or prepare a strategy for defending against any holes in its files. Often, I-9s can get lost between remote company facilities and a corporate headquarters office, and employers simply need to search for the missing records to complete their files. Since DHS is only required to provide three days' notice of an on-site visit, pro-active planning can provide a company with the time needed to locate the records. If I-9s are permanently lost, or if they were never completed, employers can contact the applicable employees and complete the forms as soon as possible. While the forms will be untimely since they were not completed within three days of the employee's hire date, employers can still provide an I-9 to show that it checked the employee's work eligibility, even if it was late. This will not necessarily protect the company against civil fines, but it can help avoid potential criminal penalties.

The agency also released a summary of audit and enforcement statistics for 2009, as compared to prior years. As expected, the numbers showed significantly enhanced enforcement in 2009. For example, since April 30, 2009, the agency has initiated 1,897 cases. In the entirety of fiscal year 2008, the agency initiated only 605 cases. In addition, since April of this year the agency has issued 142 Notices of Intent to Fine employers totaling potential damages of almost \$16 million. In fiscal year 2008, the agency totaled 32 such notices totaling almost \$2.3 million.



Fees & Burgess, P.C.—Calendar of Events

Coming in 2010

Fees & Burgess, P.C., is proud to present, or participate in the presentation of, the following upcoming seminars/webinars:

January 13, 2010

[Labor/Human Resources Law Update](#)

Decatur, Alabama

Tennessee Valley Chapter of SHRM Monthly Meeting

Jeff Roth and Leah Green will be presenting at the Tennessee Valley Chapter of SHRM monthly meeting held in Decatur, Alabama. Topics to be covered are:

- Employee Free Choice Act
- Healthy Families Act
- Employment Nondiscrimination Act (ENDA)
- Equal Remedies Act
- Federal Oversight, Reform, and Enforcement of the WARN Act (FOREWARN Act)
- Protecting Older Workers Against Discrimination Act (S.1756)
- Arbitration Fairness Act of 2009 (S.931)
- Firearms in Parking Lots

January 13, 2010

[WBCNA/ISM Program](#)

Huntsville, Alabama

Chamber of Commerce of Huntsville/Madison County

This event is hosted by Women’s Business Center of North Alabama (WBCNA) and the Institute for Supply Management (ISM). Jeff Roth’s topic will be on, Small Business “Legal Need to Knows”.

For more information please contact the Chamber of Commerce phone:(256) 535-2051 or

WBCNA at (256) 535-2038 ~e-mail: info@wbcna.org.

January 22-23, 2010

[Contract Management and Business Arrangements](#)

San Diego, California

Risk Allocation in Critical Areas of the Contract, presented as part of EMS Training II:Part C of the IPC EMS program Manager Training and Certification Program.



Fees & Burgess, P.C.—Calendar of Events

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February 3, 2010; 11:00 - 1:00PM CST

[Negotiation and Resolution of Federal Government Contractor Claims under the Contracts Disputes Act Webinar](#)

Huntsville, Alabama

Attendees of this program will learn how to prepare, negotiate, and submit contract disputes to the government for resolution under the Contract Disputes Act of 1978, as well as options for appealing claims denied by the government.

This course is designed to meet the requirements of the National Contract Management Association's (NCMA) certification programs for 1 hour of CPE.

For more information on the topics to be discussed [click here](#).

February 17, 2010 ~ March 17, 2010 ~ April 21, 2010 ~ May 12, 2010

[International Commercial Contracting: Identifying, Avoiding, and Managing Risk Areas](#)

Holiday Inn Research Park - Huntsville, Alabama

This four-part course provides a practical introduction to international contracting, focusing particularly on risk identification and avoidance. Attendees will gain an understanding of the laws and provisions governing international agreements, and how international contractual relationships differ from domestic counterparts. The course will provide a solid grasp of the concepts, theories, and practical considerations necessary for drafting, interpreting, and negotiating international contracts. This course can be used toward ISM and NCMA credit.

Session 1: Introduction to International Contracting ~ February 17, 2010 ~ [Click here for details](#).

Session 2: Drafting 101 ~ March 17, 2010 ~ [Click here for details](#).

Session 3: Drafting 101 Continued ~ April 21, 2010 ~ [Click here for details](#).

Session 4: Special Considerations in International Contracting ~ May 12, 2010 ~ [Click here for details](#).

If you would like more information on these seminars, please go to www.feesburgess.com

Watch for Other Upcoming Seminars and Webinars





SPEAKERS

Fees & Burgess, P.C., provides speakers, training programs, seminars, and webcasts for various trade associations; business groups; and clients. For information regarding a program, contact Sylvia Taylor at staylor@feesburgess.com.

NEWSLETTERS

Fees & Burgess, P.C., also publishes *F&B Quarterly Bytes*, focusing on multiple practice areas; and *F&B SCM Memo*, focusing on the supply chain management industry. To receive any of these e-newsletters, please e-mail Sylvia Taylor at staylor@feesburgess.com with your contact information.

To remove your name from our mailing list, please e-mail staylor@feesburgess.com.

Michael L. Fees
mfees@feesburgess.com

C. Gregory Burgess
gburgess@feesburgess.com

Allen L. Anderson
anderson@feesburgess.com

Jeffrey L. Roth
jroth@feesburgess.com

FEES & BURGESS, P.C.
213 Green Street
Huntsville, Alabama 35801

Telephone (256) 536-0095
Facsimile (256) 536-4440

www.feesburgess.com

Stacy L. Moon
smoon@feesburgess.com

Leah M. Green
lgreen@feesburgess.com

Nori D. Horton
nhorton@feesburgess.com

Ryan G. Blount
rblount@feesburgess.com

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“No representation is made that the quality of legal services to be performed is greater than the quality of legal services performed by other lawyers.”