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ASK SCORE: Comply with federal laws on employment verification

By Richard Strug

Our chapter's resident expert on employment issues, Yan Bennett, recently shared her thoughts on federal regulations on employer requirements in verifying the work eligibility of employees.

Bennett is an attorney and counsels small business owners on various state and federal requirements.

"Recently, the federal government proposed changes to regulations governing verification of employee work authorization, or what human resource personnel know as Form I-9 Employment Eligibility Verification," Bennett said. "These changes include amending the acceptable identity and employment authorization documents employees may present to their employers, disallowing employers to accept expired documents to verify employment authorization on the Form I-9, and proposing changes to the Form I-9 itself.

"However, during the public comment period, which was to conclude on Feb. 2, the federal government received comments from employers requesting an extension of the effective date of the rule to address procedural and substantive concerns the new rule raises. Commentators noted that without proper guidance, the new rule, as proposed, would present exceptional burdens and costs to employers in using the new form and instructions. The interim final rule and an informational copy of the revised Form I-9 are available for public comment at www.regulations.gov until April 3.

"The imposition of this new interim rule may result in a cost of an aggregate \$100 million to businesses in the first year that the new form is used. The government considers this initial cost to be a non-recurring in that most of the costs are associated with familiarizing human resources and personnel with the new requirements, and transitioning to the new forms. However, failure to comply with the employment eligibility verification requirements may result in the imposition of civil penalties of several hundred to several thousand dollars per employee.

"Thus, the total cost of the new rule and form may well be unknown. Employers are highly encouraged to familiarize themselves with the new regulation before it becomes effective for a smooth transition.
