

**HR-E Alert**  
**HURRICANE KATRINA AND FORM I-9 DOCUMENTATION**  
**September 6, 2005**

Many Gulf Coast refugees applying for employment with Texas employers currently may have trouble presenting employers with the supporting original documentation Section 274A of the Immigration and Nationality Act (INA) requires that employers inspect when collecting Employment Eligibility Verification (I-9) Forms, as well as other information or documentation commonly collected as part of the employment application or hiring process.

The INA generally requires U.S. employers to verify employment eligibility and establish identity by inspecting original documents presented by the employee. Many victims of Hurricane Katrina understandably lack these documents and fallout from the Gulf Coast devastation likely will delay the ability of many victims to obtain replacement documents.

On Tuesday, September 6, 2005, the Department of Homeland Security (DHS) announced that for the next 45 days, it will not bring sanctions against employers for hiring individuals evacuated or displaced as a result of Hurricane Katrina otherwise eligible for employment but who currently lack personal documents. It is not clear how DHS will handle documentation issues after this 45 day period expires in October.

The DHS announcement allows employers to hire provisionally Gulf Coast victims currently unable to produce original documentation normally required under the I-9 requirements, subject to the understanding that those hired will timely pursue and provide the missing documentation. Employers hiring Hurricane Katrina victims unable to provide all required I-9 documentation based on the DHS announcement still must complete the Employment Eligibility Verification (I-9) Form as much as possible; however they should note on the Form I-9 that the employee has represented that the missing documentation normally required is not available at this time due to the events involving Hurricane Katrina. Because the DHS announcement only delays the deadline, and does not waive, an employer's responsibility for securing the required documentation from Hurricane Katrina victims, however, employers making provisional hires based on the DHS announcement should establish procedures for communicating to workers provisionally hired the necessity of their timely securing and providing the required documentation to the employer and should carefully monitor whether the employees are providing the pending documentation in a timely fashion. Employers should consider providing affected employees at the time of hire or shortly thereafter with a letter or memorandum reminding the employees of the need to secure and provide on a timely basis the required original documentation for inspection. Many employers also may want to consider including contact information or other tips designed to help employees request replacement documents with this communication.

In addition to problems supplying requested I-9 documentation, employers can anticipate that Hurricane Katrina victims hired into their workforce also may have difficulty providing current address and telephone information. Employers also should anticipate that the challenges of reestablishing living and other arrangements may impact on the attendance and productivity of Hurricane Katrina victims and family members employed by their organization.

If you have questions or need help evaluating or responding to the effects of Hurricane Katrina or other concerns relating to your human resources, employee benefit, insurance or other operations, or to request information about upcoming programs or alerts, please contact: Cynthia Marcotte Stamer, P.C., Member, Glast, Phillips & Murray, P.C., 2200 One Galleria Tower, 13355 Noel Road, LB 48, Dallas, Texas 75240. Telephone (972) 419-7188. E-mail [cstamer@gpm-law.com](mailto:cstamer@gpm-law.com). For other helpful resources or additional information about Ms. Stamer and/or Glast, Phillips & Murray, P.C., see [CynthiaStamer.com](http://CynthiaStamer.com) or [gpm-law.com](http://gpm-law.com) or contact Ms. Stamer. If you would like to receive future Alerts or announcements about other programs or developments, please be sure that we have your current contact information – including your preferred e-mail – by providing that information to us via telephone, fax or e-mail using the above contact information.

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