I-9 Compliance

Audit Report #13-26
September 30, 2013

Office of Auditing and Consulting Services

"Committed to Service, Independence and Quality"
September 30, 2013

Dr. Diana Natalicio, President
The University of Texas at El Paso
Administration Building, Room 500
El Paso, Texas 79968

Dear Dr. Natalicio:

The Office of Auditing and Consulting Services has completed a limited scope audit of 1-9 Compliance. The objectives of this audit were to document the process for follow-up on 1-9 violations and to determine whether the process for Form 1-9 completion is in compliance with all applicable laws, regulations and internal policies and procedures.

We appreciate the cooperation and assistance provided by Human Resources Services throughout our audit.

Sincerely,

William A. Peters, CPA, CIA
Director

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EXECUTIVE SUMMARY

The Office of Auditing and Consulting Services has completed a limited scope audit of I-9 Compliance. The audit scope was limited to the examination of Form I-9 processing for the period beginning September 1, 2012 through June 30, 2013.

The objectives of this audit were to:

➢ document the process for follow-up on I-9 violations and
➢ determine whether the process for Form I-9 completion is in compliance with all applicable laws, and internal policies and procedures.

Our audit resulted in the following finding:

➢ An Employment Eligibility Verification Forms I-9 were not completed by 208 employees in a timely manner during the period of September 1, 2012, through June 30, 2013. On average, the delinquent forms were submitted 14 days after the new hire date.
BACKGROUND

Form I-9 requirements are included in the Immigration Reform and Control Act of 1986 (IRCA). According to the Department of Homeland Security (DHS), the United States Citizenship and Immigration Services (USCIS) Form I-9 is used to verify the identity and employment authorization of individuals hired in the United States.

All U.S. employers must ensure proper completion of Form I-9 for each individual, including both citizens and noncitizens, hired in the United States within 3 business days of the employee’s first day of employment. Both employees and employers (or authorized representatives of the employer) must complete the form, and employees must attest to their employment authorization. Employees must also present their employer with acceptable documents evidencing identity and employment authorization.

Title 8 of the Code of Federal Regulations (8 CFR § 274) provides detailed guidelines for Form I-9 compliance. Failure to complete and maintain a Form I-9 timely may result in federal fines and penalties from the Department of Homeland Security.

AUDIT OBJECTIVES

The focal points of this audit were to:

- document the process for follow-up on I-9 violations and
- determine whether the process for Form I-9 completion is in compliance with all applicable laws, and internal policies and procedures.

SCOPE AND METHODOLOGY

The audit scope of the audit was limited to the examination of Form I-9 for employees and casual labor for the period of September 1, 2012, through June 30, 2013. Audit procedures performed included the use of Computer Aided Audit Techniques, a review of applicable federal immigration and institutional documents, a review of the Form I-9 for a sample of current employees and casual labor, and interviews with key personnel.

The audit was conducted in accordance with the International Standards for the Professional Practice of Internal Auditing issued by the Institute of Internal Auditors.
AUDIT RESULTS

Delayed Submission of Form I-9

Employment Eligibility Verification Forms I-9 were not completed in a timely manner for 208 employees from September 1, 2012, through June 30, 2013. The delinquent forms were submitted from four to 82 days (averaging 14 days) after the new hire date because the hiring departments allowed individuals to work before employment documentation was submitted to Human Resource Services (HRS). As a result, the individuals were working:

- before criminal background checks were conducted,
- without health and workers compensation coverage,
- without complete employment and payroll records, and
- with delayed compensation.

Nine of the 208 individuals worked in high security labs, some of which require E-verification prior to employment.

The graphs below provides the number of employees with delinquent Forms I-9 by college or division:

Chart A. All Colleges and Divisions
Chart B. College of Science by Department

Chart C. College of Engineering by Department

Title 8 of the Code of Federal Regulations (8 CFR § 274) requires all U.S. employers to complete and retain a Form I-9 for each individual hired in the United States. The employer must complete Form I-9 by examining evidence of identity and employment authorization within three business days of the date employment begins.
The delayed submission of Form I-9 poses significant risks to the University. In the case of a federal audit, DHS may penalize employers $110 to $1,100 per violation for missing or incorrect Form I-9 documents.

HRS maintains a spreadsheet to record late submissions of Form I-9 by department and distributes this information to the appropriate Deans and Vice-Presidents on a monthly basis to assist them with I-9 compliance in the departments under their direct supervision.

**Recommendation:** The HRS Report of I-9 violations by department should be reported to and reviewed by all management at the Vice Presidential level on a monthly basis. Departments should be required to provide an action plan to prevent future incidents. The action plans should be shared with the President and the Legal Department.

**Management Response:** We concur that I-9 violations should be reported to University Administration. Monthly reports will be delivered by the 10th of each month to the Provost and Vice President for Academic Affairs and the Senior Executive Vice-President for appropriate action. Improved communication, including face to face visits with department heads, college CAOS, and deans has already significantly reduced violations.

**Responsible party:** Jesse Manciaz, Interim Director, Human Resource Services

**Implementation date:** October 1, 2013

**Form I-9 Document Management**

During the audit, we selected a random sample and reviewed forty Forms I-9 for regular employees, and sixty Forms I-9 for casual labor individuals. We reviewed each Form I-9 for the following criteria:

- Form I-9 on file
- Form I-9 fully completed
- Correct Social Security Number
- Proper documents listed
- Signed and dated by employer
- Signed and dated by employee
- Form I-9 signed within 3 days of first employment date

100% of the Forms I-9 were on file and available for our review. We noted several minor errors on some forms, but in general, the process for Form I-9 completion is in compliance with federal guidelines.
CONCLUSION

In our opinion, timeliness of I-9 forms requires significant improvement. Although HRS has made a concerted effort to resolve the tardiness of I-9 forms, ultimate resolution requires that individual departments comply with federal regulations and University policies and procedures. We believe that implementation of our recommendation will mitigate serious legal and financial risks.

We wish to thank the Interim Director and staff of HRS for their assistance and cooperation provided throughout the audit.