



# APS

Agri-Placement Services, Inc.

## THE APS ADVISOR: RECENT NEWS

A WORKFORCE YOU CAN RELY ON!

November 2013

OUR MISSION IS TO PROVIDE ETHICAL PRINCIPLES IN HUMAN RESOURCES LEADERSHIP THAT SUPPORTS FARM PROFITABILITY AND EMPLOYER AND EMPLOYEE WELFARE, WHILE SUCCESSFULLY EARNING THE SATISFACTION, RESPECT, AND TRUST OF EACH.

OUR VISION IS TO BECOME THE NATIONAL LEADER IN THIRD-PARTY AGRICULTURAL HUMAN RESOURCE SERVICES AND EMPLOYER-EMPLOYEE RELATIONS.

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## Immigration Reform: Keep Pushing *By F. Brandon Mallory*

The American people are frustrated and very disappointed with our government. We watch in the media the childlike game that our government seems to be playing with funding the government and the federal debt ceiling and it becomes obvious that our government appears more concerned with politics than it is with passing meaningful legislation that will help bolster the still ailing U.S. economy. Stephen Covey, in his National Best Seller book, The Seven Habits of Highly Effective People, popularized the phrase "Win Win", which means that when there are differing opinions to the solution of a problem, parties involved search for a solution that will benefit both sides of the debate, thereby causing both parties to win. He also used another phrase in the same chapter of the book, "Lose Lose". This happens when neither side works toward a solution that benefits both sides, perhaps even a

better solution than either previously considered, but instead takes the position that if I cannot have what I want, I will make sure you do not get what you want! Hence, both parties lose. How immature, egotistical and self-defeating is that!? My mother used to say it this way, "You are biting off your nose to spite your face." How sad! I apologize for the sentiment of this opening article of our quarterly newsletter, but I believe I speak to the feeling of the majority of Americans. The agricultural industry and other industries dependent on a primarily undocumented workforce are pawns in another poorly contested game of chicken that our government seems to be playing. Stop it, Congress! Stop it, White House!

With all of that said, we cannot as an industry lose our resolve to keep pressure on our elected officials to work toward a solution to this now

decades-long problem of an inadequate labor supply for agriculture. The problem is simple to articulate. American agricultural no longer has an adequate, ready, willing and able workforce; therefore, we must devise a new system to ensure the industry has a sufficient labor supply. It is a question of national security. After all, we cannot live without food and we should not put this country in the precarious position of having to depend upon another country to produce it for us.

I heard Speaker John Boehner say recently that Congress is working on raising the federal debt ceiling and that this would only be a short-term fix of six to eight weeks. This would give Congress and the White House more time to work out an agreement on ways to reduce the federal deficit, among other things. We hope this would also include ending the future shutdown **Con't p. 2**

## Form I-9 Retention and Purging

*By Aaron TeCrony*

Much has been written and discussed about Form I-9, but let's take a quick refresher with a focus on I-9 retention and purging practices. First and foremost, it is very important to properly complete an I-9 for all employees hired after 11/6/86. Employers must review an employee's

document (s) and fully complete Section 2 within 3 business days of hire. I-9s must be retained in the event of someone questioning hiring procedures. APS highly recommends keeping all completed I-9s together in a single folder, completely separate from any other documents. If I-9s are ever requested, only produce exactly what is requested, no more and no less. Keep all original I-9s and provide copies of forms for inspection, if requested. Also, be sure to review your I-9s periodically to purge eligible forms.

The reasons of purging I-9s are rarely discussed and often misunderstood. As per the M-274 Handbook for Employers <http://www.uscis.gov/sites/default/files/files/form/m-274.pdf> on p. 27, "Employers must retain an employee's completed Form I-9 for as long as the individual works for the employer. [And] . . . either three years after the date of hire, or **Con't p. 2**

of the government, eventually paving the way to refocus on immigration reform, which lately has been pushed down on the list of priorities, but still gaining momentum nonetheless.

## Immigration Reform . . . (con't)

While the immigration reform debate lost some momentum due to other pressing issues in Washington, well-organized groups led by some of the biggest names in business, such as New York City Mayor Michael Bloomberg and Facebook's Mark Zuckerberg, have targeted GOP lawmakers and have recruited local business leaders, chambers of commerce, and evangelical Christians to deliver a unified message that immigration reform legislation is crucial to the success of local economies. Bibles, Badges and Business for Immigration Reform, a national network of faith, law enforcement, and business leaders, are also working together to educate and support members of Congress as they consider reform to our immigration system. With their unique perspectives, this network of allies has become a driving force in the immigration reform debate.

This group and others spent Tuesday, October 30 urging House Republicans to take up a broad immigration reform overhaul. The team of Utah business leaders included several members of their state's congressional delegation, most of whom are Republicans. Their main mission was to pressure House leadership to lead. What a novel idea! Congress needs to act now. That's the bottom line. The group of more than 600 conservative business, Christian, and law enforcement leaders from most of the U.S. states flew in to the Capitol for meetings with nearly 150 Republican lawmakers. They are largely taking aim at House Republicans, who they think could support a broad immigration reform overhaul, including some sort of legal status for the 11 million immigrants in the country illegally. The leaders are urging the lawmakers to take a more proactive role in pushing immigration reform legislation to a House vote.



We are urging our readership to not be discouraged and to not take their foot off the proverbial pedal as we relentlessly and tirelessly talk with our lawmakers. At this point, our message to lawmakers has to be, DO SOMETHING! Inaction is no longer acceptable. Look at the problem in a bi-partisan, non-political way and find common ground. Again, we understand there are fundamental differences between the parties; however, there has to be things on which we can agree. Think "Win Win" and synergy and do what makes the most sense for this country. To do nothing is not a viable option.

## Form I-9 . . . (con't)

one year after the date employment is terminated, whichever is later." To help understand this cumbersome sentence, here is an example of both clauses. Jorge and Carlos were both hired on 1/1/10. Jorge was a loyal employee who worked until 6/1/13, which means his form can be purged on or after 6/2/14. The "one year after employee termination" stipulation is triggered because he was working for at least 3

years, and forms are to be retained for the longer of the 2 options. Carlos, however, had a sick relative emergency and left employment one month (2/1/10) after he was hired. His I-9 needs to remain on file until 1/2/13 because 3 years from the date of hire is greater than 1 year after his final day of work.

Perhaps the most important reason to periodically purge I-9s is to legally dispose of forms containing uncorrect-

able, thus finable errors. If an I-9 audit discovers old, error-filled forms, the employer is held accountable. If these forms have been purged, they are no longer a concern. Potentially hundreds of dollars in fees were purged away! You now also have more space in the office.

If you have any questions or need help with the procedures in this article, please contact APS for more information about Form I-9.

## Healthcare Law Requirement

By Julia DeVries

your healthcare plan (if you have one). You must do the same for all new hires starting October 1, 2013. Go to <http://www.dol.gov/elaws/esa/flsa/scope/screen24.asp> to quickly assess if you are required to comply with the law.

Under the new healthcare law, many employers are required to notify their employees about the Health Insurance Marketplace ([www.healthcare.gov](http://www.healthcare.gov)) by October 1, 2013. This is true regardless of their full-time or part-time status or whether they're enrolled in

If your company is covered by the Fair Labor Standards Act (FLSA) <http://www.dol.gov/whd/flsa/>, you must provide a written notice to employees informing them:

1. About the Health Insurance Marketplace;
2. That, depending on any coverage you offer, they may be able to get lower costs on private insurance in the Marketplace based on their income;
3. That if they buy insurance through the Marketplace, they may lose the employer contribution (if any) to their health benefits.



## OSHA Compliance

By Peter Conlon

Earlier this year the federal Occupational Safety and Health Administration (OSHA) <http://www.osha.gov> announced that it would begin inspection and enforcement efforts on dairy farms in NY in 2014 following various farm-related deaths in other states, prompting stepped up enforcement there as well. While it is believed that OSHA will target large farm operations, especially in regions with OSHA offices, all dairy farms should be prepared for unannounced OSHA and Dept. of Labor (DOL) <http://www.dol.gov> visits. APS is prepared to help you get ready for an OSHA visit with some simple beginning steps toward compliance.



Federal OSHA operates in states that do not have their own state agency. OSHA has largely steered clear of dairy operations, but recent farm-related accidents have prompted new attention. It has been reported that unannounced inspections have also included visits from DOL officials to make sure employers are complying with minimum wage and fair employment laws. While only a small fraction of dairy farms are likely to be inspected, there is no way to predict where and when they will occur.

At a recent webinar on this issue, several experts in the field said that OSHA inspectors often ask first about chemical awareness and safety. OSHA rules require that all employees working in an environment where

chemicals are used be made aware of the chemicals, proper use and protection, as well as where to find more information. This includes materials such as acids and soaps used in wash systems, pre- and post-dips, footbath chemicals (such as copper sulfate and formaldehyde), and all chemicals used outside the milking operation, even diesel fuel, among others.

What are employer responsibilities?

1. First and foremost, make sure you have the Material Safety Data Sheets (MSDS) <https://www.osha.gov/dsg/hazcom/msds-osha174/msdsform.html> for all chemicals used on the farm. If you do not have these, ask your supplier to provide them, in both English and Spanish, if available. All MSDS must be collected, placed together and made available to all employees any time. This is often referred to as the right-to-know law. Complicated? No. A simple 3-ring binder with MSDS written on it is usually sufficient.
2. Make all employees aware of the MSDS binder, its location, and the rights of all employees to access the information at any time. Your APS representative can make this clear to your Spanish-speaking work force. OSHA inspectors are often bilingual, and will ask your employees about their awareness of the MSDS.
3. Put a supervisor in charge of knowing the chemicals used by employees and make sure proper personal protective equipment is available to employees using

those chemicals. At a minimum this means wearing gloves (gloves should be required in handling all chemicals) and eye protection, but can mean using face shields and appropriate breathing masks when using certain chemicals, such as formaldehyde.

4. Make sure all employees know the safety precautions for each chemical. Ask your APS representative to speak with your Spanish-speaking employees about each chemical they use on the job.

According to the experts, inspectors also look at other workplace risks better known to farm operators such as roll-over protection systems on tractors, machine guards over entanglement risks, PTO guards, etc. Most farms are aware of programs that can help put these measures in place. As farm machinery is the leading cause of farm accidents, proper protection will not be overlooked.

While taking these steps is no guarantee that inspectors won't find any problems, it at least demonstrates employer responsibility. It can create a change in attitude and save the farm from significant penalties. These are also important safety practices that should be used in any workplace.

Preparation is essential and now is the time to get ready. Start contacting suppliers or search online for MSDS in both English and Spanish and begin compiling them in a 3-ring binder. Make sure farm machinery has proper guards. With good preparation, hopefully any inspection will be as painless as possible.

## Healthcare . . . (con't)

Links to downloadable model notices are available in both English and Spanish and in two different formats (PDF and MS WORD) on the U.S. Dept. of Labor website at <http://www.dol.gov/ebsa/healthreform/index.html>.

There is no daily fine for failing to meet this requirement. Read this FAQ on notice of coverage options at <http://www.dol.gov/ebsa/faqs/faq-noticeofcoverageoptions.html>.

Get more details and guidance on employee notices in the U.S. Dept. of Labor's Technical Release 2013-02 at <http://www.dol.gov/ebsa/newsroom/tr13-02.html>.

For more information about PPACA or healthcare reform, visit the U.S. Dept. of Labor website at [www.dol.gov](http://www.dol.gov) or the U.S. Dept. of Health and Human Services website at [www.hhs.gov](http://www.hhs.gov).



## Please Welcome Our Newest APS Team Member!

APS continues to grow and expand more rapidly than ever before. Shortly after Erica Tobey (May 2013) and Britney Henderson (June 2013) joined our team, we bid farewell to Francisco Ponce in August 2013 and welcomed Clay Martin in September 2013 as our new BHRS Manager for the Central NY/PA Region. With the addition of Ohio farms to our list of members, we are also in the process of hiring another BHRS Manager to cover just the Mid-Atlantic Region.

### More About Clay:

In his mind Clay could not have found a more perfect job matching his experience, values, skills, and enjoyment. After working over four years with the Peace Corps in Panama and Ecuador, he eagerly puts to use in his home country what he has learned in Latin America. Prior to the Peace Corps, he worked as an English teacher for Latin American business professionals and also as an education coordinator for a Hispanic center. He is eager to listen to what farm owners and managers have to say just as much as he is looking forward to talking with their employees. In his free time, he enjoys exploring nature, exercising, learning about indigenous cultures, self-education, and traveling.

### More About Britney:

Britney currently resides on her family-owned and operated 300-head dairy farm milking 120 registered Holsteins and farming 600 acres of cash crop. She graduated from Binghamton University with a Bachelor's Degree in Spanish Language and Literature. Over the last four months, she has thoroughly enjoyed incorporating her love for agriculture and the Spanish language while working for APS.

### More About Erica:

Erica was born in San Marcos, Guatemala and moved to Los Angeles, CA in the 1990's. After attending an adult schooling program to earn her high school diploma, she lived and worked in CA for almost 18 years and then moved with her family to NY in 2005.

- **F. Brandon Mallory**, Company President/Director
- **Dawna Mallory**, Office Assistant
- **Julia DeVries**, Finance Manager/Assistant Director
- **Alona Myers**, Marketing Manager
- **Erica Tobey**, BHRS Assistant
- **Ivan Jaramillo**, Field Development and Support Manager
- **Aaron TeCrony**, BHRS Manager, Western NY/PA Region and Mid-Atlantic Region (OH/VA/MD/DE)
- **Peter Conlon**, BHRS Manager, Northeast Region (VT/NH/ME/MA)
- **Clay Martin**, BHRS Manager, Central NY/PA Region
- **Britney Henderson**, BHRS Manager, Northern NY Region



Common Dairy Farm  
Vocabulary and Phrases  
English/Spanish



A WORKFORCE YOU CAN RELY ON!

## Common Dairy Farm Vocabulary and Phrases Booklet

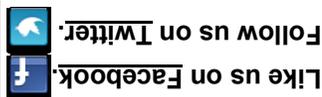
This compact, bilingual dairy dictionary contains key agricultural vocabulary, helpful phrases, basic questions, common verbs, useful adjectives, basic Spanish letter pronunciation guide, and much more designed specifically for dairy farms. Order booklets via the APS website.

### Hard Copy Features:

- 4"x5½" dimensions; 45 spiral-bound pages
- Light-weight construction; pocket-sized design
- Water/tear-resistant paper
- Laminated, full-color covers

### Booklet Prices:

- Hard copy: \$15 + tax & shipping
- eBook: \$7 + sales tax



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