§ 274a.3 Continuing employment of unauthorized aliens.

An employer who continues the employment of an employee hired after November 6, 1986, knowing that the employee is or has become an unauthorized alien with respect to that employment, is in violation of section 274A(a)(2) of the Act.

[52 FR 16221, May 1, 1987, as amended at 53 FR 8613, Mar. 15, 1988]

§ 274a.4 Good faith defense.

An employer or a recruiter or referrer for a fee for employment who shows good faith compliance with the employment verification requirements of §274a.2(b) of this part shall have established a rebuttable affirmative defense that the person or entity has not violated section 274A(a)(1)(A) of the Act with respect to such hiring, recruiting, or referral.

§ 274a.5 Use of labor through contract.

Any person or entity who uses a contract, subcontract, or exchange entered into, renegotiated, or extended after November 6, 1986 (or, with respect to the Commonwealth of the Northern Mariana Islands, after the transition program effective date as defined in 8 CFR 1.1), to obtain the labor or services of an alien in the United States knowing that the alien is an unauthorized alien with respect to performing such labor or services, shall be considered to have hired the alien for employment in the United States in violation of section 274A(a)(1)(A) of the Act.

[74 FR 55739, Oct. 28, 2009]

§ 274a.6 State employment agencies.

(a) General. Pursuant to sections 274A(a)(5) and 274A(b) of the Act, a state employment agency as defined in §274a.1 of this part may, but is not required to, verify identity and employment eligibility of individuals referred for employment by the agency. However, should a state employment agency choose to do so, it must:

(1) Complete the verification process in accordance with the requirements of §274a.2(b) of this part provided that the individual may not present receipts in lieu of documents in order to complete the verification process as otherwise