



HR Specialist Summit

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Managing Immigration Challenges and Compliance

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HR Specialist Summit

When ICE or HSI Agents Appear



- Investigative and Charging Priority:
 - Attorney General Memo: Prosecutors “shall use all available criminal statutes to combat the flood of immigration . . .”
 - DOJ Enforcement Plan: Prioritize “violations by corporations of federal immigration law” in support of the DOJ’s Whistleblower Awards Pilot Program.
- Other Priorities:
 - Conduct I-9 Audits and Impose Fines
 - Investigate Joint Employment (contractors, staffing agencies, etc.)

Worksite Enforcement Actions and Fallout

- Three Primary Concerns:
 1. Civil Fines
 2. Criminal Charges
(individual/corporate)
 3. Operational/Reputational Impact
 - Glenn Valley Foods
 - *“ICE Took Half Their Workforce: What Do They Do Now?”* New York Times



Take a Step Back: I-9 Compliance Basics

What does DHS/HSI require?

1. Properly/Timely Completed I-9
2. Good Faith Belief New Hire is Eligible to Work
3. Good Faith Belief Current Employee Continues to be Eligible to Work
4. Properly Run E-Verify Query (where required)

What does DOJ/IER require?

1. No national origin, citizenship status, immigration status discrimination
2. No unfair documentary practices ("document abuse")
3. Private bar may start to pursue these types of cases

What does an I-9 Audit mean?

1. Civil fines/debarment from state and federal contracts
2. Tool to gather evidence

The image shows a sample of Form I-9, titled "FORM I-9" in large green letters. Below the title, it says "Employment Eligibility Verification" and "U.S. Citizenship and Immigration Services". The form includes sections for "Section 1. Employee Information and Attestation" and "Section 2. Documentation of Eligibility". It contains various fields for personal information, dates, and signatures, along with instructions for employers and employees.



Employment Eligibility Verification
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No.1615-0047
Expires 07/31/2026

Form I-9

START HERE: Employers must ensure the form instructions are available to employees when completing this form. Employers are liable for failing to comply with the requirements for completing this form. See below and the [instructions](#).

ANTI-DISCRIMINATION NOTICE: All employees can choose which acceptable documentation to present for Form I-9. Employers cannot ask employees for documentation to verify information in **Section 1**, or specify which acceptable documentation employees must present for **Section 2** or Supplement B, Reverification and Rehire. Treating employees differently based on their citizenship, immigration status, or national origin may be illegal.

Section 1. Employee Information and Attestation: Employees must complete and sign Section 1 of Form I-9 no later than the **first day of employment**, but not before accepting a job offer.

Last Name (Family Name)		First Name (Given Name)		Middle Initial (if any)	Other Last Names Used (if any)							
Address (Street Number and Name)		Apt. Number (if any)		City or Town		State	ZIP Code					
Date of Birth (mm/dd/yyyy)		U.S. Social Security Number		Employee's Email Address		Employee's Telephone Number						
<p>I am aware that federal law provides for imprisonment and fines for false statements, or the use of false documents, in connection with the completion of this form. I attest, under penalty of perjury, that this information, including my selection of the box attesting to my citizenship or immigration status, is true and correct.</p> <p>Check one of the following boxes to attest to your citizenship or immigration status (See page 2 and 3 of the instructions.):</p> <p><input type="checkbox"/> 1. A citizen of the United States</p> <p><input type="checkbox"/> 2. A noncitizen national of the United States (See Instructions.)</p> <p><input type="checkbox"/> 3. A lawful permanent resident (Enter USCIS or A-Number.)</p> <p><input type="checkbox"/> 4. A noncitizen (other than Item Numbers 2. and 3. above) authorized to work until (exp. date, if any)</p> <p>If you check Item Number 4., enter one of these:</p> <table border="1"><tr><td>USCIS A-Number</td><td>OR</td><td>Form I-94 Admission Number</td><td>OR</td><td>Foreign Passport Number and Country of Issuance</td></tr></table>								USCIS A-Number	OR	Form I-94 Admission Number	OR	Foreign Passport Number and Country of Issuance
USCIS A-Number	OR	Form I-94 Admission Number	OR	Foreign Passport Number and Country of Issuance								
Signature of Employee				Today's Date (mm/dd/yyyy)								

If a preparer and/or translator assisted you in completing Section 1, that person **MUST** complete the [Preparer and/or Translator Certification](#) on Page 3.

Section 2. Employer Review and Verification: Employers or their authorized representative must complete and sign Section 2 within three business days after the employee's first day of employment, and must physically examine, or examine consistent with an alternative procedure authorized by the Secretary of DHS, documentation from List A OR a combination of documentation from List B and List C. Enter any additional documentation in the Additional Information box; see Instructions.

List A		OR	List B	AND	List C
Document Title 1					
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					
Document Title 2 (if any)					
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					
Document Title 3 (if any)					
Issuing Authority					
Document Number (if any)					
Expiration Date (if any)					
<input type="checkbox"/> Check here if you used an alternative procedure authorized by DHS to examine documents.					
Certification: I attest, under penalty of perjury, that (1) I have examined the documentation presented by the above-named employee, (2) the above-listed documentation appears to be genuine and to relate to the employee named, and (3) to the best of my knowledge, the employee is authorized to work in the United States.					First Day of Employment (mm/dd/yyyy):
Last Name, First Name and Title of Employer or Authorized Representative		Signature of Employer or Authorized Representative			Today's Date (mm/dd/yyyy)
Employer's Business or Organization Name		Employer's Business or Organization Address, City or Town, State, ZIP Code			

For reverification or rehire, complete [Supplement B, Reverification and Rehire](#) on Page 4.



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Supplement B,
Reverification and Rehire (formerly Section 3)
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
Supplement B
OMB No. 1615-0047
Expires 07/31/2026

Supplement B

Last Name (Family Name) from Section 1.	First Name (Given Name) from Section 1.	Middle Initial (if any) from Section 1.
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Instructions: This supplement replaces Section 3 on the previous version of Form I-9. Only use this page if your employee requires reverification, is rehired within three years of the date the original Form I-9 was completed, or provides proof of a legal name change. Enter the employee's name in the fields above. Use a new section for each reverification or rehire. Review the Form I-9 instructions before completing this page. Keep this page as part of the employee's Form I-9 record. Additional guidance can be found in the [Handbook for Employers: Guidance for Completing Form I-9 \(M-274\)](#)

Date of Rehire (if applicable) Date (mm/dd/yyyy)	New Name (if applicable) Last Name (Family Name)	First Name (Given Name)	Middle Initial
Reverification: If the employee requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.			
Document Title	Document Number (if any)	Expiration Date (if any) (mm/dd/yyyy)	
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.			
Name of Employer or Authorized Representative	Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)	
Additional Information (Initial and date each notation.)		<input type="checkbox"/> Check here if you used an alternative procedure authorized by DHS to examine documents.	

Date of Rehire (if applicable) Date (mm/dd/yyyy)	New Name (if applicable) Last Name (Family Name)	First Name (Given Name)	Middle Initial
Reverification: If the employee requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.			
Document Title	Document Number (if any)	Expiration Date (if any) (mm/dd/yyyy)	
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.			
Name of Employer or Authorized Representative	Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)	
Additional Information (Initial and date each notation.)		<input type="checkbox"/> Check here if you used an alternative procedure authorized by DHS to examine documents.	

Date of Rehire (if applicable) Date (mm/dd/yyyy)	New Name (if applicable) Last Name (Family Name)	First Name (Given Name)	Middle Initial
Reverification: If the employee requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.			
Document Title	Document Number (if any)	Expiration Date (if any) (mm/dd/yyyy)	
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.			
Name of Employer or Authorized Representative	Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)	
Additional Information (Initial and date each notation.)		<input type="checkbox"/> Check here if you used an alternative procedure authorized by DHS to examine documents.	



Electronic Forms I-9 Requirements—New Frontier for Enforcement

System Integrity

- System must provide same level of data integrity, security, sequence, and access as paper-based processes.

Employee and Employer Roles

- Employee completes Section 1; Employer completes Section 2 and 3.

Accessibility

- Employers must produce electronic I-9 records (e.g., DHS, ICE) within three business days.

Electronic Authentication

- The system must capture attestation and digital signatures and be linked to signer's identity.

Audit Trail

- Requires secure audit trail, tracking who accessed or modified the form (with time, step taken).



Good Faith at Hiring

Required to be Document Expert?

- Must accept documents that “**reasonably appear to be genuine and to relate to the person** presenting them.”
 - But what is “**reasonable**”?



Continuing Good Faith

- **Ongoing Responsibility to Monitor Workforce**
- **Actual/Constructive Knowledge**
 - Improper/Missing Form I-9
 - Expired Temporary Document
 - Obviously Fake Documentation
 - Confession/Recorded Conversation
 - Temp Workers/Contractors (Walmart)
 - Government Notification (DHS, SSA, IRS, etc.)



E-Verify System

Voluntary (unless Executive Order for Federal Contracts or State Law Applies)

What does E-Verify accomplish?

- **Rebuttable presumption of legal workforce**
- **No “safe harbor” from workplace enforcement**
- **Complies with FAR E-Verify clause (if applicable)**
- **Complies with state laws (10 states)**

WARNING: E-Verify has become tool for ICE and IER to target employers

- **Audit thresholds (for referral to ICE or IER)**



Civil Tools

- Fines
 - Knowing Employment of Undocumented Workers (up to \$5,800 per employee)
 - Paperwork Violations (up to \$2,800 per defective form)
- Contract Debarment or Suspension (Federal Contractors)
 - For knowing employment of undocumented workers
 - One-year increments



Other Documents



Pattern and practice in hiring undocumented workers (misdemeanor). 8 USC 1324a(f)



Knowingly hiring 10+ unauthorized workers w/in 1 year. 8 USC 1324(a)(3)



Harboring/shielding undocumented workers from detection. 8 USC 1324(a)(1)(A)(iii)



Encouraging or inducing undocumented workers to remain in violation of law. 8 USC 1324(a)(1)(iv)



Making false attestation on Form I-9 (Perjury and Visa Fraud). 18 USC 1546(b)



Forced Labor/Benefitting from Forced Labor. 18 USC 1589, 1590



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Best Practices

- **Conduct internal audit**
 - i. Highlight problematic I-9s
 - ii. Correct them
 - iii. Flag employees with bad documents and develop plan with counsel to address the situation
- **Stop the Bleeding**
 - i. Provide compliance training for I-9 and visa sponsorship
 - ii. Establish written I-9 Compliance Policy
 - iii. Enroll in E-Verify (and use it consistently)
 - iv. Participate in IMAGE (<https://www.ice.gov/outreach-programs/image>)?
Do not participate in this program without coordinating with counsel
- **Reduce Individual/Company Exposure**
 - i. Reverify or phase out personnel with bad documents
 - ii. Consult with counsel about known problems or warning signs (past or present)
 - iii. Develop action plan for responding to government agencies (e.g., HSI, ICE, IRS, local law enforcement, etc.)



Thank you! Questions?



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