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*Are You Ready
For The New Form I-9?*

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Today's presenter and some notes...



Debra Dowd
Richmond

Welcome. With the high number of attendees, please note all lines have been muted for the event. Q&A can be posted at the right of your screen, but any questions (time permitting) will be addressed at the end of the event. If using Q&A – please send to both the host and the presenter. You can send direct questions (including request for copy of slides) to seminars@leclairryan.com with **Immigration** in the subject for reply after the event.

We have also applied for HRCI credit – please send an email to seminars@leclairryan.com if you are interested in the Certificate of Attendance. Thank you.



The New Colossus

-Emma Lazarus

Not like the brazen giant of Greek fame,
With conquering limbs astride from land to land;
Here at our sea-washed, sunset gates shall stand
A mighty woman with a torch, whose flame
Is the imprisoned lightning, and her name
Mother of Exiles. From her beacon-hand
Glow world-wide welcome; her mild eyes command
The air-bridged harbor that twin cities frame.

“Keep, ancient lands, your storied pomp!” cries she
With silent lips. “Give me your tired, your poor,
Your huddled masses yearning to breathe free,
The wretched refuse of your teeming shore.
Send these, the homeless, tempest-tossed to me.
I lift my lamp beside the golden door!”



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EMPLOYER COMPLIANCE



Employer Compliance

- I-9 Compliance
- E-Verify
 - Stem Occupations
- Audits and Investigations
 - Self Audits
 - Audits by Counsel
 - Government Audits



Same Issue, Different Century: What's Not New in the Immigration Debate

U.S. employers have always been at the heart of the perennial debate about who to let in, who to keep out, and whether we really are a “nation of immigrants.”



U.S. Employers: The Real Border Patrol

“Employers are being held to a much higher standard than ever before, with deficiencies in DHS paperwork requirements exposing those employers to far more than administrative fines and penalties...[I]t is imperative that employers scrupulously employ practices and policies for proper preparation and maintenance of I-9 records, as well as strictly adhere to the anti-discrimination and anti-document abuse protections.”

Cora D. Tekach, Securing Our Borders from Within:
Forcing Employers to be the Virtual Fence,
07-12 Immigration Briefing I (Dec. 2007)



News Release



Office of Public Affairs
U.S. Department of Homeland Security

**U.S. Immigration
and Customs
Enforcement**

July 1, 2009

Contact: ICE Public Affairs
Phone: (202) 732-4242

ICE launches initiative to step-up audits of businesses' employment records *652 businesses nationwide being served with audit notices today*

WASHINGTON – U.S. Immigration and Customs Enforcement (ICE) is launching a bold, new audit initiative today by issuing Notices of Inspection (NOIs) to 652 businesses nationwide – which is more than ICE issued throughout all of last fiscal year. The notices alert business owners that ICE will be inspecting their hiring records to determine whether or not they are complying with employment eligibility verification laws and regulations. Inspections are one of the most powerful tools the federal government has to enforce employment and immigration laws. This new initiative illustrates ICE's increased focus on holding employers accountable for their hiring practices and efforts to ensure a legal workforce.



[Skip Navigation](#)



U.S. Immigration
and Customs
Enforcement

U.S. Immigration and Customs Enforcement

News Releases

March 02, 2010

ICE serves 180 audit notices to businesses in 5 states *Employment records will be screened for compliance with federal law*

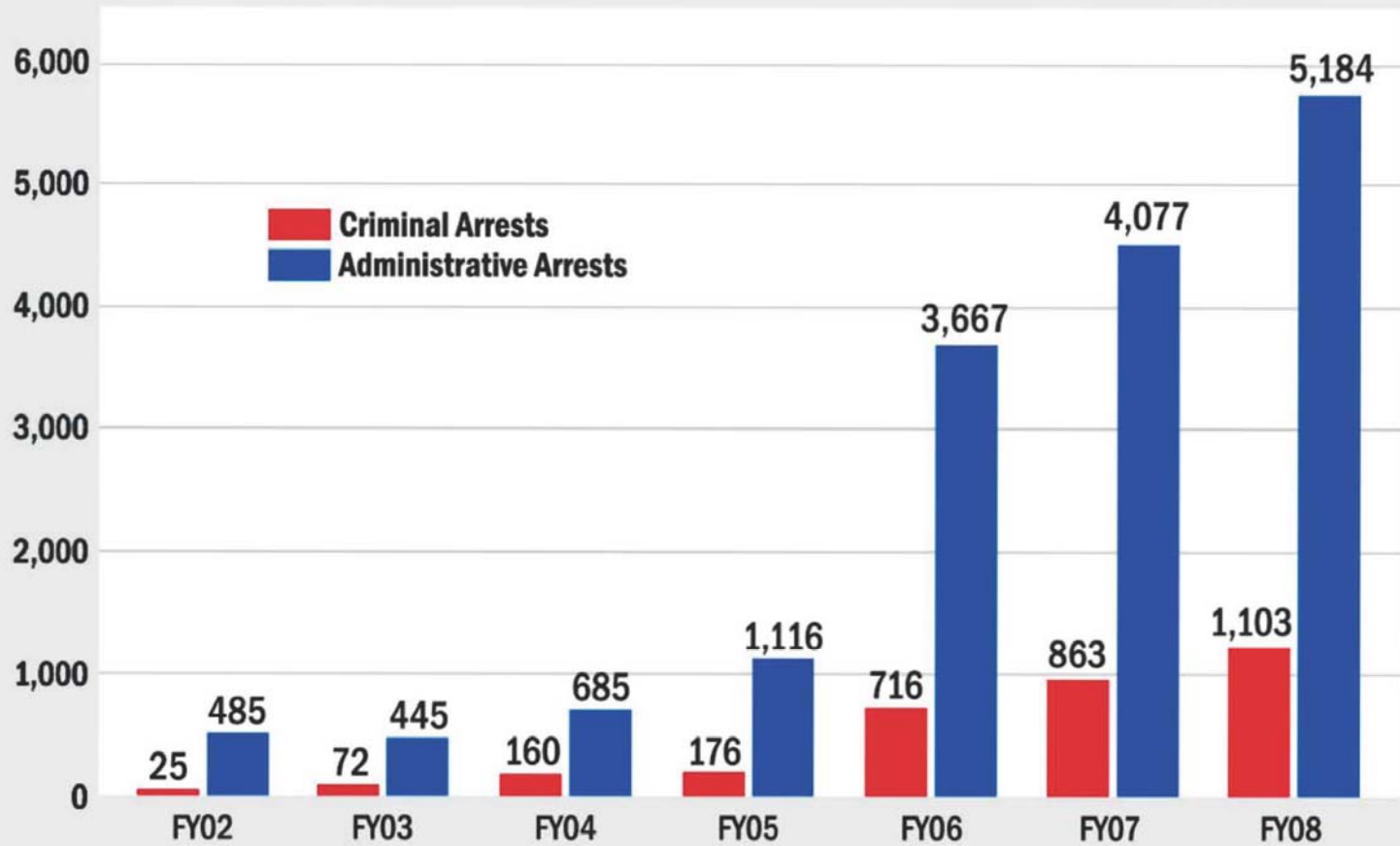
NEW ORLEANS - U.S. Immigration and Customs Enforcement (ICE) is issuing Notices of Inspection (NOIs) to 180 businesses in Louisiana, Mississippi, Alabama, Arkansas and Tennessee. The notices alert business owners that ICE will be inspecting their hiring records to determine whether or not they are complying with employment eligibility verification laws and regulations.

Inspections are one of the most powerful tools the federal government has to enforce employment and immigration laws. This new initiative is part of ICE's increased focus on holding employers accountable for their hiring practices and efforts to ensure a legal workforce.

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Worksite Enforcement Arrests





ICE: FY2011 Accomplishments

- Homeland Security Investigations (HSI) made more than 713 criminal arrests tied to worksite enforcement investigations.
- Of the individuals criminally arrested, 221 were owners, managers, supervisors or human resources employees. They face charges such as harboring or knowingly hiring illegal aliens. The remaining workers who were criminally arrested face charges such as aggravated identity theft and Social Security fraud.
- HSI served 2,496 Notices of Inspection, which resulted in 385 Final Orders, totaling \$10,463,987.61 in administrative fines.
- ICE debarred 212 business and individuals for administrative and criminal violations.



ICE: FY2012 Accomplishments

- HSI made 520 criminal arrests tied to worksite enforcement investigations.
- Of the individuals criminally arrested, 240 were owners, managers, supervisors or human resources employees. They face charges such as harboring or knowingly hiring illegal aliens. The remaining workers who were criminally arrested face charges such as aggravated identity theft and Social Security fraud.
- HSI served 3,020 Notices of Inspection and 495 Final Orders, totaling \$12,475,575.00 in administrative fines.
- ICE debarred 376 business and individuals for administrative and criminal violations.



The “Culture of Compliance”

“Since President Obama took office, the Department of Homeland Security has audited more than 2,785 employers suspected of hiring illegal laborers, compared to 500 audits in all of 2008, according to Matthew Chandler, a spokesman for the U.S. Immigration and Customs Agency, known as ICE. The Obama administration has debarred 105 companies and 81 individuals and issued more than \$6.4 million in fines, he said.

“We are going after the root cause of illegal immigration and getting rid of the culture of compliance among employers,” Chandler told Fox News.

Source: “Administration's ‘Silent Raids’ Lead to Firings Not Deportations,” FoxNews.com.
<http://www.foxnews.com/politics/2010/07/10/administrations-silent-raids-lead-firings-deportations/#>
(accessed Sept. 28, 2010)



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Employer Compliance:
The I-9 Process



Immigration Reform & Control Act of 1986 (IRCA)

- Prohibits hire of a person lacking employment eligibility
- Mandates completion of Form I-9 to verify the employment eligibility of each new hire (November 7, 1986)
- Prohibits discrimination based upon national origin or citizenship status
- Creates sanctions for non-compliance
- Criminalizes the knowing hire of a person lacking employment eligibility



Verifying Employment Eligibility

- It is unlawful for an Employer to knowingly hire or continue to employ an individual who is not eligible to work in the United States
- The I-9 Employment Eligibility Verification Process is required by all employers, regardless of size, industry or location



Employment Authorization

- Who can work in the U.S.?
 - Citizens
 - Nationals
 - Legal Permanent Residents
 - Individuals granted a “status” that allows them to work (an alien authorized to work)



Who Can Work in the United States?

■ **Nationals of the United States**

- Individuals who hold a special status that is something less than a citizen
- Can work for any employer

■ **Non-citizens and Non-nationals**

- Consist of three categories of individuals:
 - those who can work for any employer;
 - those who can work only for the employer who “sponsors” them; and
 - those who can not work for a U.S. employer



Who has an “inherent” right to Work?

1. Citizens
2. Permanent Residents
3. Lawful Temporary Residents
4. U.S. Refugees – will be Admitted or Paroled
4. Asylees – will be granted Asylum or Paroled
5. Individuals granted withholding of removal or voluntary departure

The listed individuals may work for any Employer



Who Can Apply for Work Authorization?

1. F-1 Students (for off-campus work)
2. J-2, L-2, E-1/2 or E-3 Dependents
3. Persons in the final stages of permanent residence process
4. Those granted Temporary Protected Status, Deferred Action and similar programs are also granted authorization to work

In most cases individuals must apply for an Employment Authorization Document AND obtain it prior to commencing employment, but can work for any employer



Employer Specific Work Authorization

1. F-1 students working on-campus or under Curriculum Practical Training (CPT)
2. Most Non-Immigrant Visa Holders, including
 - E-1/2
 - H-1B, H-2A, H-2B, or H-3 temporary worker or trainee
 - J-1 exchange visitor
 - L-1/2 intra-company transferees
 - O-1 individuals with outstanding abilities
 - R-1 religious workers
 - TN professional under NAFTA

Evidence of their employment eligibility may be issued by the U.S. Citizenship and Immigration Service or otherwise be evidenced in their visa documentation (*see* Form I-9 Lists A, B and C)



Who is not Allowed to Work?

Essentially, everyone else falls within the box of “ineligible to work, including:

1. B-1/B-2 Visa or VWP Visitors
2. Dependents (spouse and children) and Non-Immigrants (F, H, O, TN, etc.)
3. Undocumented



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The New I-9 Form



Getting Familiar with the I-9 Process

- Employment Eligibility Verification Form
- How to Obtain the I-9 Form
- How to Administer the I-9 Process
- How and When to Update the I-9 Form
- How and When to Retain and Destroy the I-9 Form
- Conducting an I-9 Audit



The New I-9 Form

- Use the Form with the following date:

(Rev. 03/08/13)

Every employer must begin using this new version by May 7, 2013. Employers may begin using it before May 7, 2013.



Resources for Employers

- USCIS Handbook for Employers
(Form M-274) (Rev. 03/08/2013)
<http://www.uscis.gov/files/form/m-274.pdf>
- USCIS I-9 Central – a mini site designed to assist employers with the I-9 process.
www.uscis.gov
- Your Immigration Counsel



New Form I-9



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

USCIS
Form I-9
OMB No. 1615-0047
Expires 03/31/2016

▶ START HERE. Read instructions carefully before completing this form. The instructions must be available during completion of this form.
ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

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	Other Names Used (if any)	
Address (Street Number and Name)		Apt. Number	City or Town		State	Zip Code
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number	E-mail Address		Telephone Number		

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):

- A citizen of the United States
- A noncitizen national of the United States (See instructions)
- A lawful permanent resident (Alien Registration Number/USCIS Number): _____
- An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) _____. Some aliens may write "N/A" in this field. (See instructions)

For aliens authorized to work, provide your Alien Registration Number/USCIS Number OR Form I-94 Admission Number:

1. Alien Registration Number/USCIS Number: _____

OR

2. Form I-94 Admission Number: _____

If you obtained your admission number from CBP in connection with your arrival in the United States, include the following:

Foreign Passport Number: _____

Country of Issuance: _____

Some aliens may write "N/A" on the Foreign Passport Number and Country of Issuance fields. (See instructions)

Signature of Employee: _____ Date (mm/dd/yyyy): _____

Preparer and/or Translator Certification (To be completed and signed if Section 1 is prepared by a person other than the employee.)

I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Signature of Preparer or Translator: _____		Date (mm/dd/yyyy): _____	
Last Name (Family Name)		First Name (Given Name)	
Address (Street Number and Name)		City or Town	State Zip Code

Employer Completes Next Page

Section 2. Employer or Authorized Representative Review and Verification

(Employer or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "List of Acceptable Documents" on the next page of this form. For each document you review, record the following information: document title, issuing authority, document number, and expiration date, if any.)

Employee Last Name, First Name and Middle Initial from Section 1:			
List A Identify and Employment Authorization	List B Identify	AND	List C Employment Authorization
Document Title: _____	Document Title: _____		Document Title: _____
Issuing Authority: _____	Issuing Authority: _____		Issuing Authority: _____
Document Number: _____	Document Number: _____		Document Number: _____
Expiration Date (if any)(mm/dd/yyyy): _____	Expiration Date (if any)(mm/dd/yyyy): _____		Expiration Date (if any)(mm/dd/yyyy): _____
Document Title: _____			
Issuing Authority: _____			
Document Number: _____			
Expiration Date (if any)(mm/dd/yyyy): _____			
Document Title: _____			
Issuing Authority: _____			
Document Number: _____			
Expiration Date (if any)(mm/dd/yyyy): _____			

3-D Barcode
Do Not Write In This Space

Certification

I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear 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.

The employee's first day of employment (mm/dd/yyyy): _____ (See instructions for exemptions.)

Signature of Employer or Authorized Representative: _____	Date (mm/dd/yyyy): _____	Title of Employer or Authorized Representative: _____
Last Name (Family Name)		First Name (Given Name)
Employee's Business or Organization Name		
Employee's Business or Organization Address (Street Number and Name)		City or Town
		State Zip Code

Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)

A. New Hire (if applicable) Last Name (Family Name) First Name (Given Name) Middle Initial B. Date of Rehire (if applicable) (mm/dd/yyyy)

C. If employee's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below.	
Document Title: _____	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 document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative: _____	Date (mm/dd/yyyy): _____	Print Name of Employer or Authorized Representative: _____
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What's New About Form I-9?

- Two Pages!
- Additional data fields
- Additional instructions

The changes are more administrative than substantive



Section 1

- Section 1 must be completed by the Employee. It requires basic information about identity and the Employee's claimed status.
- Employee Name:
 - full last name(s)
 - divides name block into sections
 - "other" names used now required (not just maiden name)

Last Name (Family Name)	First Name (Given Name)	Middle Initial	Other Names Used (if any)
-------------------------	-------------------------	----------------	---------------------------



Section 1 – New Data Fields

- Section 1 now includes new data fields on the Employee:
 - employee's email address and telephone number (not mandatory)
 - no longer indicates SSN is optional (but still only required if the Employer is an E-Verify employer)

Date of Birth (mm/dd/yyyy)	U.S. Social Security Number	E-mail Address	Telephone Number
	<input type="text"/> - <input type="text"/> - <input type="text"/>		



Section 1 – Employee Status Box

- The “status box” for the Employee is expanded and requests more information

An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) _____ . Some aliens may write "N/A" in this field.
(See instructions)

For aliens authorized to work, provide your Alien Registration Number/USCIS Number OR Form I-94 Admission Number:

1. Alien Registration Number/USCIS Number: _____

OR

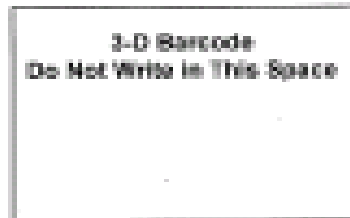
2. Form I-94 Admission Number: _____

If you obtained your admission number from CBP in connection with your arrival in the United States, include the following:

Foreign Passport Number: _____

Country of Issuance: _____

Some aliens may write "N/A" on the Foreign Passport Number and Country of Issuance fields. (See instructions)





Completed Section 1 in Handbook

Section 1. Employee Information and Attestation <i>(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.)</i>				
Last Name (Family Name)	First Name (Given Name)	Middle Initial	Other Names Used (if any)	
Doe	John	A	N/A	
Address (Street Number and Name)	Apt. Number	City or Town	State	Zip Code
123 Main Street	1	Washington	DC	20000
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number	E-mail Address		Telephone Number
01/01/1960	000-00-0000	johndoe@email.com		(202) 123-4567

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):

- A citizen of the United States
- A noncitizen national of the United States (See instructions)
- A lawful permanent resident (Alien Registration Number/USCIS Number): _____
- An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) 02/28/2015. Some aliens may write "N/A" in this field. (See instructions)

For aliens authorized to work, provide your Alien Registration Number/USCIS Number OR Form I-94 Admission Number:

1. Alien Registration Number/USCIS Number: 1 2 3 4 5 6 7 8 9

OR

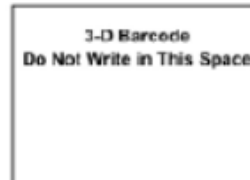
2. Form I-94 Admission Number: _____

If you obtained your admission number from CBP in connection with your arrival in the United States, include the following:

Foreign Passport Number: _____

Country of Issuance: _____

Some aliens may write "N/A" on the Foreign Passport Number and Country of Issuance fields. (See instructions)



Signature of Employee: <u>John A. Doe</u>	Date (mm/dd/yyyy): <u>06/30/2013</u>
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Section 1 – Translator/Preparer Section

Preparer and/or Translator Certification (To be completed and signed if Section 1 is prepared by a person other than the taxpayer.)

I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Signature of Preparer or Translator		Date (mm/dd/yyyy)	
Last Name (Family Name)		First Name (Given Name)	
Address (Street Number and Name)	City or Town	State	Zip Code



Section 2 – The Employer’s Section

The Employer must complete Section 2, including the Certification section, *e.g.* signature, date, etc.

The Employee must present and the Employer must review *original* documents: one item from List A *OR* one item from each of List B *AND* List C



Lists A, B and C

- There is an associated list of documents containing Schedules A, B, and C
- The printed Schedules are not exhaustive

LISTS OF ACCEPTABLE DOCUMENTS
All documents must be **UNEXPIRED**

Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.

LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
1. U.S. Passport or U.S. Passport Card		1. Driver's license issued by a State, District of Columbia, or the Commonwealth of Massachusetts provided it contains information such as name, date of birth, gender, height, eye color, and hair color by federal, state or local authority		1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)				
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable passport				
4. Employment authorization document (Form I-766)				
5. For a nonimmigrant to work because: a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: (1) The same name as the passport; and (2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.		5. U.S. Military card or draft record		4. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
		6. Military dependent's ID card		5. Native American tribal document
		7. U.S. Coast Guard Merchant Mariner Card		6. U.S. Citizen ID Card (Form I-197)
		8. Native American tribal document		7. Identification Card for Use of Resident Citizen in the United States (Form I-179)
		9. Driver's license issued by a Canadian government authority		8. Employment authorization document issued by the Department of Homeland Security
		For persons under age 18 who are unable to present a document listed above:		
		10. School record or report card		
		11. Clinic, doctor, or hospital record		
		12. Day-care or nursery school record		
6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI				

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274).

Refer to Section 2 of the instructions, titled "Employer or Authorized Representative Review and Verification," for more information about acceptable receipts.



Avoid Discrimination Claims

- Do NOT request or require specific documents
- It is best to present to the new employee with the “Lists” and tell him/her that you need one item from List A OR one item from both List B and List C
- Employers cannot refuse to accept documents that reasonably appear to be genuine



List A Documents

- List A Documents prove *both* identity and employment eligibility
- Review the list carefully
- Accept only unexpired documents

LIST A Documents that Establish Both Identity and Employment Authorization
1. U.S. Passport or U.S. Passport Card
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa
4. Employment Authorization Document that contains a photograph (Form I-766)
5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status: <ul style="list-style-type: none">a. Foreign passport; andb. Form I-94 or Form I-94A that has the following:<ul style="list-style-type: none">(1) The same name as the passport; and(2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.
6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI

Employment Authorization Card



- Issued by USCIS to foreign nationals granted temporary employment authorization in the U.S.
- Expiration date is on the front of the card.



List B and C Documents

- List B Documents prove **identity**
- List C Documents prove **employment eligibility**
- Review the lists carefully
- You cannot “trade” a list B document for a list C document (and vice versa)
- Accept only unexpired documents

LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		2. Certification of Birth Abroad issued by the Department of State (Form FS-545)
3. School ID card with a photograph		3. Certification of Report of Birth issued by the Department of State (Form DS-1350)
4. Voter's registration card		4. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
5. U.S. Military card or draft record		5. Native American tribal document
6. Military dependent's ID card		6. U.S. Citizen ID Card (Form I-197)
7. U.S. Coast Guard Merchant Mariner Card		7. Identification Card for Use of Resident Citizen in the United States (Form I-179)
8. Native American tribal document		8. Employment authorization document issued by the Department of Homeland Security
9. Driver's license issued by a Canadian government authority		
For persons under age 18 who are unable to present a document listed above:		
10. School record or report card		
11. Clinic, doctor, or hospital record		
12. Day-care or nursery school record		

List B Documents

- Includes: Driver's license, State ID card, school ID card with photograph, Voter's registration card, U.S. Military card or draft record
- If employee is under 18 and cannot present the above, a school record, report card, record from a clinic, doctor or hospital, or a day-care or nursery school record is allowed.



List C Documents

- Includes: U.S. Social Security card, Birth Certificate, Certification of Birth Abroad issued by Dep't of State, U.S. Citizen ID card, Native American tribal document



U.S. Social Security Card



Certification of Birth issued by Dep't of State



Sample Completed Section 2

Section 2. Employer or Authorized Representative Review and Verification			
<i>(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents" on the next page of this form. For each document you review, record the following information: document title, issuing authority, document number, and expiration date, if any.)</i>			
Employee Last Name, First Name and Middle Initial from Section 1: Jones, Jennifer A			
List A	OR	List B	List C
Identify and Employment Authorization		Identify	Employment Authorization
Document Title: Driver's License		Document Title: Employment Authorization Card	
Issuing Authority: Virginia Dept of Motor Vehicle		Issuing Authority: Dept of Homeland Security	
Document Number: T999888776		Document Number: 111-555-999	
Expiration Date (if any)(mm/dd/yyyy): 06/14/2017		Expiration Date (if any)(mm/dd/yyyy): 08/12/2012	
Document Title:			
Issuing Authority:			
Document Number:			
Expiration Date (if any)(mm/dd/yyyy):			
Document Title:			
Issuing Authority:			
Document Number:			
Expiration Date (if any)(mm/dd/yyyy):			
			3-D Barcode Do Not Write in This Space

Certification

I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear 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.

The employee's first day of employment (mm/dd/yyyy): 04/16/2012 (See instructions for exemptions.)

Signature of Employer or Authorized Representative <i>Mary Baker</i>	Date (mm/dd/yyyy) 04/16/2012	Title of Employer or Authorized Representative Human Resources, Generalist	
Last Name (Family Name) Baker	First Name (Given Name) Mary	Employer's Business or Organization Name ABC Company, Inc.	
Employer's Business or Organization Address (Street Number and Name) 123 Main Street	City or Town Richmond	State VA	Zip Code 23219



Section 3 - Re-Verification

- Section 3 of the I-9 Form
- Generally, whenever a document used for employment verification has an expiration date, the I-9 Form must be “reverified” at the time of the expiration
- Exception to general rule, do not re-verify I-9s for U.S. Citizens, Permanent Residents or Conditional Residents
- Do not re-verify for List B documents
- Employers should create a reliable “tickler” system for reverification



Sample Completed Section 3

Section 3. Reverification and Rehires <i>(To be completed and signed by employer or authorized representative.)</i>			
A. New Name <i>(if applicable)</i> Last Name <i>(Family Name)</i> First Name <i>(Given Name)</i>		Middle Initial	B. Date of Rehire <i>(if applicable)</i> <i>(mm/dd/yyyy)</i> :
Smith Jennifer		A	
C. If employee's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below.			
Document Title:	Document Number:	Expiration Date <i>(if any)</i> <i>(mm/dd/yyyy)</i> :	
Permanent Resident Card	111-222-333	12/07/2015	
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 document(s), the document(s) I have examined appear to be genuine and to relate to the individual.			
Signature of Employer or Authorized Representative:	Date <i>(mm/dd/yyyy)</i> :	Print Name of Employer or Authorized Representative:	
<i>Mary Baker</i>	08/12/2012	Mary Baker	



To Copy or Not to Copy

- Employers have the choice of whether to copy the Employee's support documents
- Employers should have a determined policy on this issue and follow it strictly
- If an employer copies for one – copy for all.
- It is important to maintain consistency



Storing the I-9 Form

- I-9 Forms can be stored as hardcopy, microfiche or microfilm, or electronically
- Recommend that I-9 Form be maintained outside the personnel file



Retention Rules

- The forms should be retained for the longer of:
 - 3 years after the commencement of employment; or
 - 1 year after the last day of employment
- When one of the retention periods is reached, the Form I-9 and its supporting documents should be shredded and destroyed



Retention Worksheet

Handbook Worksheet:

1. Enter date employee started work: _____

Add 3 years to Line 1

A. _____

2. Termination date: _____

Add 1 year to Line 2

B. _____

Which date is later: A or B? Enter later date here.

C. _____

Store Form I-9
until this date.



Retention Calculation

Hire Date: 01/01/2013

Termination Date: 01/01/2014

Retention Calculation:

- 3 years from hire = 01/01/2016
- 1 year from termination = 01/01/2015
- Form must be retained through 01/01/2016



All I-9 Software Products are Not Created Equal!

- If a company elects to utilize a software program to produce, re-verify and store your I-9s, choose carefully
- The regulations require that I-9 Software Programs meet certain requirements



I-9 Software Requirements

- Reasonable controls to ensure the integrity, accuracy and reliability of the electronic generation or storage system
- Reasonable controls designed to prevent and detect the unauthorized or accidental creations of, addition to, alteration of, deletion of, or deterioration of the forms
- An inspection and quality assurance program
- A retrieval system, including indexing systems
- The ability to reproduce legible hardcopies



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Employer Compliance:
E-Verify



E-Verify

- The E-Verify program is a free, automated status verification system for federal, state, and local government employers as well as participating private employers
- The program is a partnership between the Department of Homeland Security and the Social Security Administration

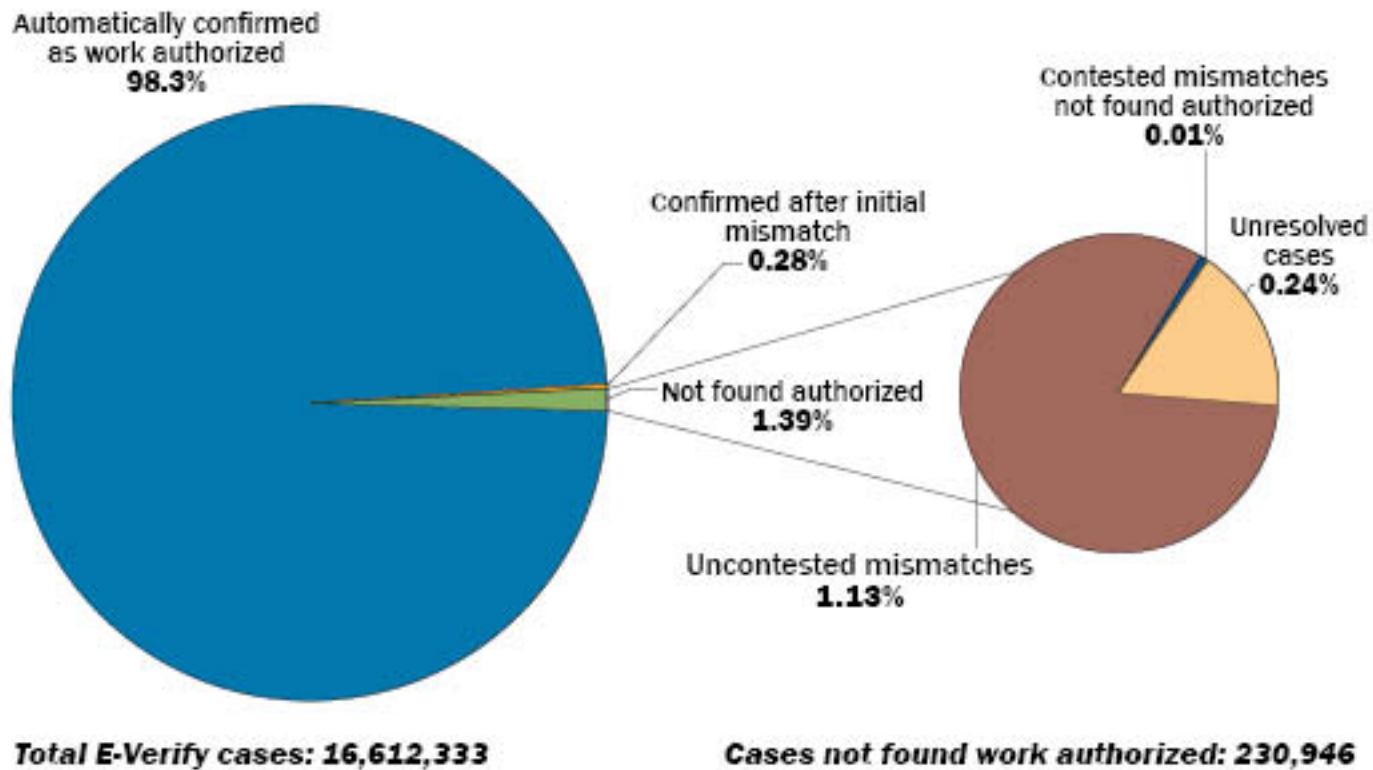


E-Verify

- Employers submit I-9 data online and receive an immediate initial response on employment eligibility
- Federal law makes E-Verify voluntary for all employers except employers with certain Federal contracts
- State and local laws vary significantly in whether E-Verify is a mandate. The large majority of states have either a law or an executive order mandating limited or full use of E-Verify
- http://go.lawlogix.com/rs/lawlogix/images/E-Verify_Requirements_Dec.pdf



E-Verify Statistics





Non-Confirmation?

- *Why do employees receive final non-confirmation responses?*
Either:
 - (a) They are not authorized to work in the United States;
 - (b) They didn't know they could challenge an initial mismatch; or
 - (c) They did not follow the necessary procedures to prove work authorization after receiving an initial mismatch.



General Guidelines for E-Verify

- Does not replace the I-9 process
- Cannot be used to pre-screen potential hires
- Can only be used to verify eligibility of newly hired employees unless enrolled as federal contractor
- Queries must be conducted within 3 days after hire
- Does not protect against worksite enforcement
- You can terminate your E-Verify participation only after giving 30 days notice of termination



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Employer Compliance:
Audits



IRCA Sanctions

- I-9 Compliance Violations
 - Paperwork Error \$110 to \$1,100 per error
 - Missing I-9s \$1,100 per employee
- Knowingly Hiring or Continuing to Employ
 - First Offense: \$375 to \$3,200 per employee
 - Second Offense: \$3,200 to \$6,500 per employee
 - Third Offense: \$4,300 to \$16,000 per employee
- Pattern and Practice (regular, repeated and intentional)
 - Criminal Penalties
 - \$3,000 per employee
 - And/Or 6 months jail time



Personal Liability

- The company representative signs each Form I-9 with a personal attestation under penalty of perjury that he or she has examined the documents presented and determined that the documents appear genuine



Best Practices

- Centralize the I-9 Process, thereby limiting the number of employees involved
- Conduct self-audits
- Engage counsel for periodic audits
- Train, train, train



Conducting An I-9 Audit

- Obtain payroll register and confirm that every employee hired after November 6, 1986 has an I-9 on file
- If not, complete the I-9 now using the current date
- Review I-9s to be sure that they are complete
- Make corrections to existing I-9s
 - Use different color ink; initial and date changes
 - Never backdate



Correcting I-9s

- Never white out original information; strike through and correct
- Changes to Section 1 of form must be made by employee
- If documentation is missing, ask employee to provide and make corrections to Section 2



Government Audits

- Notice of Inspection (NOI) – provides the employer with 72 hours to produce the listed documentation
- May be able to negotiate a longer period of time
- The NOI typically requests:
 - List of current and former employees with hire and termination dates
 - Payroll and wage reports
 - No Match Letters and correspondence relating thereto
 - Company formation documents, e.g. Articles of Incorporation
 - Company Licenses



Audit Outcomes

- Compliance Letter
- Notice of Suspect Documents – employer may have unauthorized employees; employer and employee are given the opportunity to present additional documentation confirming the employee’s employment eligibility
- Notice of Discrepancies – the government is unable to determine the work eligibility of listed employees



Audit Outcomes (continued)

- Notice of Technical or Procedural Failure – government found technical violations and providing a ten day period to correct
- Warning Notice – substantive violations identified, but the government is foregoing penalties
- Notice of Intent to Fine – substantive uncorrected violations evidencing the employer’s knowing hiring or continued to hire employees without authorization to work



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Everywhere immigrants have enriched and strengthened the fabric of American life.

-John F. Kennedy