

Employer Rights and Responsibilities

IMPORTANT

The following content is NOT legal advice.

Every case is different, so please be sure to consult with a qualified attorney regarding your own case.

GOAL OF THE PRESENTATION:

Employers guidance to minimize disruption to the workforce and day to day operations.

What we will cover:

1. *Enforcement on Businesses*
 - a. I-9 Audits
 - b. Workplace Raids
 - c. SSA no-match letters
2. *What Employers and Employees Should Know*
 - a. How to correctly fill out I-9's
 - b. Making a Company Raid Plan
3. *Q&A*

DHS ENFORCEMENT TOOLS:

I-9 Audits:

- ICE will request to review an employer's I-9 Forms (Employment Verification Form)
- Employer will generally face fines and sometimes required to enroll in E-Verify

Worksite Raids:

- ICE will generally arrive at worksite(s) unannounced to detain and arrest individuals they suspect are present in the U.S. without authorization

What Employers Should Know - I-9 Audits

I-9 Audits

1. Self Audit -
 - Correct Forms I-9
 - Retention Rule: 1 yr after last day of employment
2. REMEMBER: You don't have to hand over requested documents immediately
 - Notification of Inspection - 72 hour rule
3. Contact your employment-immigration attorney immediately
4. Only turn over the files requested
5. Make copies of documents before handing them over to ICE

How to Correctly Fill out Form I-9s



Section 1: EMPLOYEE

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) Doe		First Name (Given Name) John		Middle Initial (if any) A
Address (Street Number and Name) 123 Main St.		Apt. Number (if any) Apt. A	City or Town Washington	State DC ZIP Code 00000
Date of Birth (mm/dd/yyyy) 01/01/2000	U.S. Social Security Number 1 2 3 4 5 6 7 8 9	Employee's Email Address employee@email.com		Employee's Telephone Number (123) 123-1234
I am aware that federal law provides for imprisonment and/or 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.		Check one of the following boxes to attest to your citizenship or immigration status (See page 2 and 3 of the instructions.):		
		<input checked="" type="checkbox"/> 1. A citizen of the United States		
		<input type="checkbox"/> 2. A noncitizen national of the United States (See Instructions.)		
		<input type="checkbox"/> 3. A lawful permanent resident (Enter USCIS or A-Number.)		
		<input type="checkbox"/> 4. A noncitizen (other than Item Numbers 2. and 3. above) authorized to work until (exp. date, if any)		
		If you check Item Number 4. , enter one of these:		
		USCIS A-Number	OR	Form I-94 Admission Number
			OR	Foreign Passport Number and Country of Issuance
Signature of Employee John Doe		Today's Date (mm/dd/yyyy) 11/15/2024		
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.				

- Make sure the employee completes Section 1 on or before his/her first day of work for pay - manager/employer should not fill in this section.
- Always double check to make sure all required items are filled in, and that the employee SIGNS and DATES (Date should be first day of work for pay).

Section 2: EMPLOYER/MANAGER

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	US Passport				
Issuing Authority	US Department of State				
Document Number (if any)	123456789				
Expiration Date (if any)	01/01/2030				
Document Title 2 (if any)	Additional Information				
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): 11/15/2024
Last Name, First Name and Title of Employer or Authorized Representative Doe, Jane HR Manager at ABC Manufacturing		Signature of Employer or Authorized Representative Jane Doe		Today's Date (mm/dd/yyyy) 11/15/2024	
Employer's Business or Organization Name ABCManufacturing		Employer's Business or Organization Address, City or Town, State, ZIP Code 123 Industry Ave, Washington DC, 00000			

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

- Employer or manager completes within 3 days of employee's first day of work for pay
- Double check to make sure all required items are filled in
- Make sure that information about the employee is consistent with the information in Section 1
- Make sure information in Section 2 about employee's identity and employment authorization is consistent with the documents they provided to you – you must review the original identity and work authorization documents

Section 3 - Reverification or Rehire

Date of Rehire (if applicable)		New Name (if applicable)	
Date (mm/dd/yyyy)	Last Name (Family Name)	First Name (Given Name)	Middle Initial
12/25/2024			
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)	
Employment Authorization Document	123456789	01/01/2026	
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)	
Jane Doe	Jane Doe	12/25/2024	
Additional Information (Initial and date each notation.)		<input type="checkbox"/> Check here if you used an alternative procedure authorized by DHS to examine documents.	

- Employer or manager should complete Section 3 when employee's employment authorization documentation has expired
 - This would include a returning hire or a rehire of someone on a new visa (H2A, H2B, etc.)
- If the employment authorization documentation has expired, ask the employee to present an unexpired List A or List C document.
 - You do not need to reverify an employee's List B (identity) document.

Correcting Form I-9s

Section 1 (Employee) Errors

- Ask employee to correct Section 1 errors
- To correct the form:
 - Draw a line through the incorrect information.
 - Enter the correct information.
 - Initial and date the correction.

Section 2 (Employer) Errors

- Correct on current form I-9 (cross out, initial and date) or print and complete a new Section 2 (initial and date), and staple it to the original I-9 form.
 - You may complete an entire new I-9, but it is not required.
- **DO NOT USE CORRECTING FLUID/WHITE OUT TO MAKE CHANGES.**
 - If you changed an I-9 using correction fluid, attach a signed and dated note to the corrected I-9 explaining what happened.

Consequences of Being Non-Compliant with Form I-9

- **MONETARY PENALTIES (Subject to Change)**
 - Knowingly Hire and Continuing to Employ violation: \$676-\$5,404/per violation
 - Substantive and Uncorrected violation: \$272-\$2,701/per violation
 - Subsequent offenses range: \$5,404-\$27,018/per violation
- **DEBARMENT**
 - Knowingly Hire and Continuing to Employ: *Employer is prevented from participating in future federal contracts and receiving other government benefits*
- **CRIMINAL PENALTIES** - pattern of hiring unauthorized workers
- **MITIGATING FACTORS [+/- 5% to 25%]**
 - Business Size
 - Good Faith
 - Seriousness
 - Unauthorized [employees]
 - History
 - Cumulative Adjustment

ICE Raid: Ensure You're Following the Law

Know the Difference: ICE (Administrative) vs. Judicial Warrant

ICE Administrative Warrant Internal ICE Document - NOT a Court Ordered Warrant

U.S. Department of Justice
Immigration and Customs Enforcement **Warrant of Removal/Deportation**

File No: _____

Date: _____

To any officer of the United States Immigration and Customs Enforcement:

(Full name of alien)

Who entered the United States at _____ on _____
(Place of entry) (Date of entry)

Is subject to removal/deportation from the United States, based upon a final order by:

- ☐ An immigration judge in exclusion, deportation, or removal proceedings
- ☐ A district director or district director's designated official
- ☐ The Board of Immigration Appeals
- ☐ A United States District or Magistrate Court Judge

And pursuant to the following provisions of the Immigration and Nationality Act:
Section 241 (a) (5) of the Immigration and Nationality Act (Ace), as amended.

I, the undersigned officer of the United States, by virtue of the power and authority vested in the Attorney General under the laws of the United States and by his or her direction command you to take into custody and remove from the United States the above-named alien, pursuant to law at the expense of the appropriation. "Salaries and Expenses Immigration and Customs Enforcement" including the expense of an attendant if necessary.

(Signature of ICE Official)

(Title of ICE Official)

(Date and Office Location)

Warrant Signed by Judge- YOU MUST open the door

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

United States of America,

Plaintiff,

v.

The Premises Known As,

Swift & Company, located at
Highway 60 NE, Worthington,
Minnesota, and all its
appurtenances, parking areas,
and outdoor working areas

Defendant.

CIVIL NO. 06mj457 JSM

ORDER
FOR WARRANT FOR
ENTRY ON PREMISES TO
SEARCH FOR ALIENS
WHO ARE IN THE UNITED
STATES WITHOUT LEGAL
AUTHORITY

**Name &
Address**

The United States of America, having filed an application to authorize officers of United States Immigration and Customs without legal authority and, if any such persons are found on the premises, to exercise their authority pursuant to section 287 of the Immigration and Nationality Act, 8 U.S.C. § 1357, to question them to determine whether they are such aliens and, if there is probable cause to believe they are such aliens, to arrest them.

IT IS FURTHER ORDERED that U.S. Immigration and Customs Enforcement shall conduct the entry and search during daylight hours with ten (10) days of the issuance of this warrant, and make its return to this Court with ten (10) days of the date the entry and search have been completed.

Dated: December 8, 2006

DATE

Janis S. Mayeron
JANIS S. MAYERON
United States Magistrate Judge

JUDGE

Worksite Raid

1. Confirm whether ICE has a Judicial Warrant (Judicial vs. Administrative Warrant).
 - Follow the scope of the warrant!
 - Ensure you and the agents are following the law by only opening up areas they are legally authorized to enter.
2. Designate a point person to communicate with ICE.
3. BE TRUTHFUL and do not interfere with ICE activities. DO NOT escalate the situation.
4. For third party worksites and contractors: direct agents to contract company
 - Make sure staffing companies confirm their compliance with applicable law in writing your company

The Point Person

- One per shift and per site
- Responsible for confirming whether ICE has a judicial warrant
- Responsible for communication with the investigating Agents
 - knows contact information for management and legal counsel
- Responsible for recording badge numbers and Agent names and making a record of the interaction to be shared with your attorney

Your Action Plan

You can always:

- Ask to see a warrant, and request that ICE come back with a warrant if they do not have one
- Request a warrant before handing over a specific employee
- Speak with and be represented by an attorney
- Remain silent and wait to sign paperwork until after consulting with your attorney
- Take full amount of time to gather requested documents to ensure you are handing over all necessary documents. Request more time.
- Ask the agents to identify themselves either with a name or a badge number

Employee Rights

1. Right to remain silent – But it must be expressed
2. Employees don't have to answer any questions about their immigration status, nationality, place of birth, etc
3. Right to an attorney
4. Employees may refuse to present any documents or identification that identifies or discloses their place of birth or country of nationality
5. Right to see an immigration judge if never been order removed/deported from the U.S.

Social Security No-Match Letters

BACKGROUND: The Social Security Administration (SSA) may revive the practice of issuing “No-Match” letters to employers

- Notification that employment records provided by the employer for an employee do not match the SSA’s records
- Those who use E-verify could get no match notifications at the time Form I-9 completed

EMPLOYERS SHOULD NOT:

- Take adverse action against an employee simply for receiving a no-match letter from the SSA or E-verify (allow employee to take corrective action)
 - Employer could be liable for employment, labor law, and civil rights violations
 - May violate State and/or Federal law
- The information you receive from SSA mismatch records or E-verify do not make any statement regarding a worker's immigration status

Thank you

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