



**WORKING TOGETHER TOWARDS EQUALITY IN THE WORKPLACE**

# I-9 and E-Verify Compliance

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# EXECUTIVE ORDERS

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- EO 12989 (Clinton Administration, 1996)
  - Foundational policy that the federal government would only contract with entities that maintain a legal workforce, and that verify I-9s
- EO 13465 (Bush Administration, 2008)
  - Requires federal contracts to include an E-Verify clause
  - FAR 52.222-54 (E-Verify, verification of new hires and those working on federal contracts)
- EO 13788 (Trump Administration 2017)
  - Directs greater worksite enforcement and I-9 inspections
- EO14519 (Trump Administration, 2025)
  - Directs maximized enforcement
- IRCA (Immigration Reform and Control Act, not an EO)
  - I-9 required by law for all employers since 1986

# I-9 COMPLIANCE

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- Ensure timely completion
  - Section 1: no later than Day 1
  - Section 2: within 3 business days
- Use the current I-9 form (OMB No. 1615-0047, Exp. 5/31/27: <http://www.uscis.gov/sites/default/files/document/forms/i-9.pdf>)
- Examine documentation timely
- Retain forms correctly
- Avoid citizenship or national origin inquiries: 8 USC Sec. 1324b

# E-VERIFY COMPLIANCE

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- E-Verify is a good idea for all employers and is required in some states
- Required for federal contractor with FAR 52.222-54
- Who must be verified:
  - All new hires
  - Employees assigned to federal contracts
  - Subcontractor flow down
- Create E-Verify case after I-9 completion
- Restrict E-Verify access to trained users only
- Review Employee Rights & Responsibilities: <http://www.e-verify.gov/employees/employee-rights-and-responsibilities>
- Display signage (E-Verify Notice of Participation and DOJ “Right to Work”) in English and Spanish

# RISK AREAS & COMMON MISTAKES

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- Late or incomplete I-9s
- Using E-Verify
  - Before acceptance of offer and I-9 completion
  - Selectively (based on potentially discriminatory reason)
- Mishandling Tentative Nonconfirmations
- Not giving an opportunity to resolve mismatch
- Specifying which I-9 documentation must be presented
- Verifying non-new hires who are not on a federal contract
- For federal contractors, not using E-Verify
- False Claims Act liability is possible here

# INSPECTIONS, REQUESTS & SEARCHES

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- Notice of Inspection
  - Most common
  - 3 days to respond
  - I-9 audit – contact counsel to reach out to ICE
- Subpoena
  - Legal demand for documents
  - Review scope and deadlines, have counsel review
- Warrant
  - Judicial warrant – ICE may enter areas specified, whether public or non-public
  - Administrative warrant – does not permit entry to non-public areas without consent

# INTERACTIONS WITH ICE/LAW ENFORCEMENT

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- Stay calm and professional
- Ask for and copy process/paperwork
- Notify counsel
- Direct interactions to a trained point of contact
- Preserve documents
- Consent is required for some reviews and interactions
- Do not obstruct
- Penalties can be significant
  - Civil Fines
  - Criminal prosecution
  - Loss of contracts



Thank You

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