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# Preparing for Immigration and Customs Enforcement (ICE) Inspections – The National Cotton Ginners Association

*Presented by:*

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# Overview

- Increased Government Audits/Raids
- I-9 Basics
- I-9 Self Audits
- Initial ICE Contact and Notice of Inspection
- Complying with the Notice of Inspection
- E-Verify
- Federal Contractor E-Verify Rule
- Electronic I-9 Solutions



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# New Enforcement Guidelines

- April 2009, Department of Homeland Security (DHS) issued new worksite enforcement guidelines for Immigration Customs & Enforcement (ICE).
- Shift of focus from illegal foreign worker to employer that hired worker.
- Illegal workers will continue to be arrested.



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# Sites of Immigration Raids, 2006-2008



- courtesy of Centro Legal

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# Raids/Audits Obama Administration



- Raids:
  - Feb. 2009: Bellingham, WA mechanic shop.
  - Dec. 2009: Houston, TX seafood restaurant.
- I-9 Audits - Notices of Inspection (NOI):
  - July 2009: 652 NOIs issued. Notices of Intent to Fine issued for \$2.3 million.
  - November 2009: 1000 NOIs issued.
    - Complaints, investigative leads/intelligence or connection to public safety & national security.
    - More I-9 Audits NOIs expected.

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# Protect your Business



- Information obtained during I-9 audit may be foundation for civil penalties, federal indictments/prosecutions, back wage awards and fines.
- Ensure I-9 compliance programs are in place, fully up-to-date, and necessary controls are in place.
- Conduct regular internal I-9 audits and remedy identified errors, as allowed.
- Have outside counsel conduct periodic I-9 audits.

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# I-9 Basic Requirements



All employees hired after November 6, 1986 must have a current I-9 form on file.

- Current version of the form issued 8/7/09 (2/2/09 version still valid).
- Section 1 - completed by employee prior to starting work.
- Section 2 - completed by employer by end of third business day after employee starts work.

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# Section 1 Completed By Employee



- Employee must complete section one before work commences.
- Section 1 asks for name, address, date of birth, and Social Security number.
- Employee must check box regarding authorization to work in the U.S.
- Must sign and date form.
- May have assistance completing form.

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# Section 1 (as of April 3, 2009)

Department of Homeland Security U.S. Citizenship and Immigration Services		OMB No. 1615-0047; Expires 06/30/09 <b>Form I-9, Employment Eligibility Verification</b>		
Read instructions carefully before completing this form. The instructions must be available during completion of this form.				
<b>ANTI-DISCRIMINATION NOTICE:</b> 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 documents have a future expiration date may also constitute illegal discrimination.				
<b>Section 1. Employee Information and Verification</b> <i>(To be completed and signed by employee at the time employment begins.)</i>				
Print Name: Last		First	Middle Initial	Maiden Name
Address <i>(Street Name and Number)</i>		Apt. #		Date of Birth <i>(month/day/year)</i>
City	State	Zip Code		Social Security #
<b>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.</b>		I attest, under penalty of perjury, that I am (check one of the following): <input type="checkbox"/> A citizen of the United States <input type="checkbox"/> A noncitizen national of the United States (see instructions) <input type="checkbox"/> A lawful permanent resident (Alien #) _____ <input type="checkbox"/> An alien authorized to work (Alien # or Admission #) _____ until (expiration date, if applicable - <i>month/day/year</i> )		
Employee's Signature		Date <i>(month/day/year)</i>		

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## Section 2 Completed by Employer



- Complete Section 2 by end of 3<sup>rd</sup> business day after employee starts work.
- Examine and record documents presented by employee to verify identify and employment authorization (one for List A or one for List B and List C).
- Insert start date, name & title of employer representative, business name & address & sign and date.

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## Section 2

### Completed by Employer – cont'd



- Certify that the documents:
  - reasonably appear to be genuine;
  - relate to the individual; and
  - authorize the individual to work
- Documents examined must be originals – not photocopies.

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# Section 2

**Section 2. Employer Review and Verification.** To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s).

List A	OR	List B	AND	List C
Document title: _____	OR	_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____				

**CERTIFICATION** - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)		Date (month/day/year)

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## Section 3 - Reverification



- If employee's authorization to work in U.S. will expire – reverify.
- If rehire employee within 3 years of original hire date – may reverify – use current version of Form I-9.
- If employment authorization document originally presented is still valid, no need to review document.

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# Section 3

**Section 3. Updating and Reverification.** To be completed and signed by employer.

A. New Name *(if applicable)*

B. Date of Rehire *(month/day/year)* *(if applicable)*

C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.

Document Title: \_\_\_\_\_ Document #: \_\_\_\_\_ Expiration Date (if any): \_\_\_\_\_

**I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible 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 *(month/day/year)*

Form I-9 (Rev. 06/05/07) N

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# Photocopy Rule



- Copying of documents presented by the employee permitted but not required.
- Even if copy documents, penalty may result if form is not also properly completed.
- Photocopies can be used to correct problems identified during a periodic self-audit or in advance of a government audit.

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# Retention Requirements

- Once employee terminated, you must retain I-9 form for:
  - At least three years from date of hire; and
  - At least one year from date of termination;
  - Whichever is later.
- Once retention requirements met, purge form.



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# IRCA Prohibited Acts

- Cannot:
  - Knowingly hire an alien who is not authorized to work.
  - Hire any individual without verifying identity and work authorization.
  - Continue employing person if you know **or should know** the person is not authorized to work.



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# IRCA Prohibited Acts



- CANNOT:
  - require specific document or combination of documents.
  - require more or different documents than minimally required.
  - refuse to accept documents that reasonably appear to be genuine.

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# Self-Audit – Getting Started



- Generate a list of all current employees.
  - Include name, date of hire, and distinguishing fact (SSN or DOB).
- Pull I-9 forms for all current employees.
- Make sure that you have an I-9 form for each employee on the list.
- Make a note on the list if an I-9 form is missing for a particular employee.

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# Missing Form I-9

- If you determine that an I-9 form is missing for a current employee – complete a form immediately.
- Ask employee to complete Section 1, sign and date (with current date).
- Complete Section 2 (insert original start date) and sign and date (with current date).



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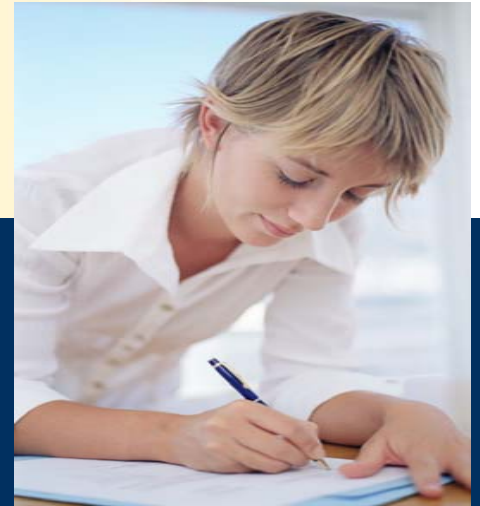
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# Self Audit – Review Form

- Review each I-9 form for errors.
- Use “stick-on” notes to highlight error(s).
- Things to look for:
  - Missing information
  - Incomplete listing for documents
  - Signatures in Sections 1 and 2
  - Section 1 – Status Box Checked
  - Too many documents in Section 2
  - Was the correct version of the form used?



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# Making Corrections

- Correct errors, as allowed, on each form.
  - Section 1 – Employee makes corrections.
  - Section 2 – Employer makes corrections.
- Strike through errors – do not use White Out or Liquid Paper.
- All corrections should be initialed, dated, and include the words “Per Self Audit”.



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# Section 1 – Common Errors



- Employee completed Section 1 after commencing work – Not Correctable.
- Employee did not check box regarding authorization to work in the U.S. – Correctable.
- Missing Social Security number - Not required (unless using E-Verify at time of hire).
- Employee failed to check or fully complete Citizenship Status Box - Correctable.
- Employee did not sign or date - Correctable.

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# Section 1

OMB No. 1615-0047; Expires 06/30/09

Department of Homeland Security  
U.S. Citizenship and Immigration Services

**Form I-9, Employment  
Eligibility Verification**

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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 documents have a future expiration date may also constitute illegal discrimination.

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**Section 1. Employee Information and Verification** *(To be completed and signed by employee at the time employment begins.)*

Print Name: Last	First	Middle Initial	Maiden Name
Address <i>(Street Name and Number)</i>		Apt. #	Date of Birth <i>(month/day/year)</i>
City	State	Zip Code	Social Security #

<p><b>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.</b></p>	<p>I attest, under penalty of perjury, that I am (check one of the following):</p> <p><input type="checkbox"/> A citizen of the United States</p> <p><input type="checkbox"/> A noncitizen national of the United States (see instructions)</p> <p><input type="checkbox"/> A lawful permanent resident (Alien #) _____</p> <p><input type="checkbox"/> An alien authorized to work (Alien # or Admission #) _____ until (expiration date, if applicable - <i>month/day/year</i>)</p>
Employee's Signature	Date <i>(month/day/year)</i>

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## Section 2 - Common Errors



- No Start Date Listed in Certification Box - Correctable.
- Issuing Authority, Document Number, and/or Expiration Date missing for identity and work authorization document(s) - Correctable.
- Too many or too few documents listed - Correctable.
- Employer signature box incomplete – Correctable.

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# Section 2

**Section 2. Employer Review and Verification.** To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s).

List A	OR	List B	AND	List C
Document title: _____	OR	_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____				

**CERTIFICATION** - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)		Date (month/day/year)

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# Section 3 – Common Errors



- Date of Rehire Missing - Correctable.
- Section 3 completed when not required (e.g. for Permanent Resident) - Correctable.
- Employer signature and date missing - Correctable.
- Incorrect version of form used – Not Correctable.
- Date of Rehire more than 3 years after original hire date – Not Correctable.
- Re-verification of employment eligibility not timely – Not Correctable.

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# Section 3

<b>Section 3. Updating and Reverification (To be completed and signed by employer.)</b>		
A. New Name (if applicable)		B. Date of Rehire (month/day/year) (if applicable)
C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment authorization.		
Document Title:	Document #:	Expiration Date (if any):
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 (month/day/year)

Form I-9 (Rev. 02/02/09) N Page 4

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# Photocopies

## Section 2 Documents

- Photocopies of Section 2 documents may be used to correct problems identified.
- Review photocopies and insert missing information.
- Initial and date correction.



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# Terminated Employees – Auditing Retained Forms



- Print List of terminated employees who were hired after November 6, 1986.
- Check hire date and termination date to determine whether I-9 form should be on file for terminated employee.
- Purge forms not required to retain.
- Review retained I-9 forms and correct errors where allowed/possible.

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# Missing I-9 – Terminated Employee

- If you discover that you are missing an I-9 form for a terminated employee, you may contact terminated employee and complete I-9 form now.
- Good practice to review I-9 form at termination/exit interview.



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# Most Common I-9 Mistakes

- Section 1 – Work status box not checked.
- Section 2 – Start date missing.
- Section 2 – Issuing authority missing for document.
- Section 2 – More documents requested/listed than required.



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# I-9 Form

OMB No. 1615-0047; Expires 06/30/09

Department of Homeland Security  
U.S. Citizenship and Immigration Services

## Form I-9, Employment Eligibility Verification

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 documents have a future expiration date may also constitute illegal discrimination.

### Section 1. Employee Information and Verification (To be completed and signed by employee at the time employment begins.)

Print Name: Last <b>JONES</b>	First <b>SALLY</b>	Middle Initial	Maiden Name <b>JOHNSON</b>
Address (Street Name and Number) <b>1031 Valient Drive</b>		City <b>Boston</b>	Date of Birth (month/day/year) <b>August 17, 1964</b>
State <b>MA</b>	Zip Code <b>33333</b>	Social Security #	

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 national of the United States (see instructions)
- A lawful permanent resident (Alien #)
- An alien authorized to work (Alien # or Admission #) until (expiration date, if applicable - month/day/year)

Employee's Signature: Sally Jones Date (month/day/year)

### 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.

Preparer's/Translator's Signature	Print Name
Address (Street Name and Number, City, State, Zip Code)	Date (month/day/year)

### Section 2. Employer Review and Verification (To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number, and expiration date, if any, of the document(s).)

List A	OR	List B	AND	List C
Document title: <u>US Passport</u>		<u>Driver's License</u>		<u>Social Security Card</u>
Issuing authority:				
Document #:				<u>263-44-7708</u>
Expiration Date (if any):				
Document #:				
Expiration Date (if any):				

**CERTIFICATION:** I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) and that to the best of my knowledge the employee is authorized to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative <u>Betty Smith Sooner</u>	Print Name <u>Betty Smith Sooner</u>	Title <u>HR Representative</u>
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code) <u>444 Long Rd. Atlanta GA 30327</u>		Date (month/day/year)

### Section 3. Updating and Reverification (To be completed and signed by employer.)

A. New Name (if applicable)	B. Date of Rehire (month/day/year) (if applicable)	
C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment authorization.		
Document Title	Document #	Expiration Date (if any):
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 (month/day/year)	

# Errors Identified

OMB No. 1615-0047; Expires 06/30/09  
**Form I-9, Employment Eligibility Verification**

Department of Homeland Security  
U.S. Citizenship and Immigration Services

**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 documents have a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Verification** (To be completed and signed by employee at the time employment begins.)

Print Name: Last <u>JONES</u>	First <u>SALLY</u>	Middle Initial	Maiden Name <u>JOHNSON</u>
Address (Street Name and Number) <u>103i Valiant Drive</u>		Apt. #	Date of Birth (month/day/year) <u>August 17 1964</u>
City <u>Boston</u>	State <u>MA</u>	Zip Code <u>33333</u>	Social Security #

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 #)
- An alien authorized to work (Alien # or Admission #)

Employee's Signature: Sally Jones Date (month/day/year)

**Preparer and/or Translator Verification** (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.)

Preparer's/Translator's Signature: \_\_\_\_\_ Print Name: \_\_\_\_\_  
Address (Street Name and Number, City, State, Zip Code): \_\_\_\_\_ Date (month/day/year): \_\_\_\_\_

**Section 2. Employer Review and Verification** (To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number, and expiration date, if any, of the document(s).)

<b>List A</b>	<b>OR</b>	<b>List B</b>	<b>AND</b>	<b>List C</b>
Document title: <u>US Passport</u>		<u>Drivers License</u>		<u>Social Security Card</u>
Issuing authority:				<u>263-44-7708</u>
Document #:				
Expiration Date (if any):				
Document #:				
Expiration Date (if any):				

**CERTIFICATION:** I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) and that to the best of my knowledge the employee is authorized to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative: Betty Smith Sooner Print Name: Betty Smith Sooner Title: HR Representative  
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code): 444 Logan Rd Atlanta GA 30327 Date (month/day/year): \_\_\_\_\_

**Section 3. Updating and Reverification** (To be completed and signed by employer.)

A. New Name (if applicable): \_\_\_\_\_ B. Date of Review (month/day/year) (if applicable): \_\_\_\_\_

C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment authorization.

Document Title:	Document #:	Expiration Date (if any):
-----------------	-------------	---------------------------

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 (month/day/year): \_\_\_\_\_

Form I-9 (Rev. 02/02/09) N Page 4

# Corrected

Department of Homeland Security  
U.S. Citizenship and Immigration Services

Per Self Audit

OMB No. 1615-0047; Expires 06/30/09  
**Form I-9, Employment Eligibility Verification**

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 documents have a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Verification** (To be completed and signed by employee at the time employment begins.)

Print Name: Last <u>JONES</u>	First <u>SALLY</u>	Middle Initial	Maiden Name <u>JOHNSON</u>
Address (Street Name and Number) <u>1031 Valiant Drive</u>		Apt. #	Date of Birth (month/day/year) <u>August 17, 1964</u>
City <u>Boston</u>	State <u>MA</u>	Zip Code <u>33333</u>	Social Security #

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 SS 7/16/09

A noncitizen national of the United States (see instructions)

A lawful permanent resident (Alien #)

An alien authorized to work (Alien # or Admission #) \_\_\_\_\_  
until (expiration date, if applicable - month/day/year)

Employee's Signature Sally Jones Date (month/day/year) 7/16/09 SS 7/16/09

**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.

Preparer's/Translator's Signature	Print Name
Address (Street Name and Number, City, State, Zip Code)	Date (month/day/year)

**Section 2. Employer Review and Verification** (To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number, and expiration date, if any, of the document(s).)

<i>Per Self Audit</i>	<u>BSS 7/16/09</u> List A	OR	List B	AND	List C
	Document title: <u>US Passport</u>		<u>Drivers License</u>		<u>Social Security Card</u>
	Issuing authority: _____		<u>State of GA</u>		<u>Social Security Admin</u>
	Document #: _____		<u>274 08 2312</u>		<u>263-44-7708</u> <u>BSS 7/16/09</u>
	Expiration Date (if any): _____		<u>10/14/2010</u> <u>BSS 7/16/09</u>		

**CERTIFICATION:** I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) \_\_\_\_\_ and that to the best of my knowledge the employee is authorized to work in the United States. (State employment agencies may omit the date the employee began employment.)

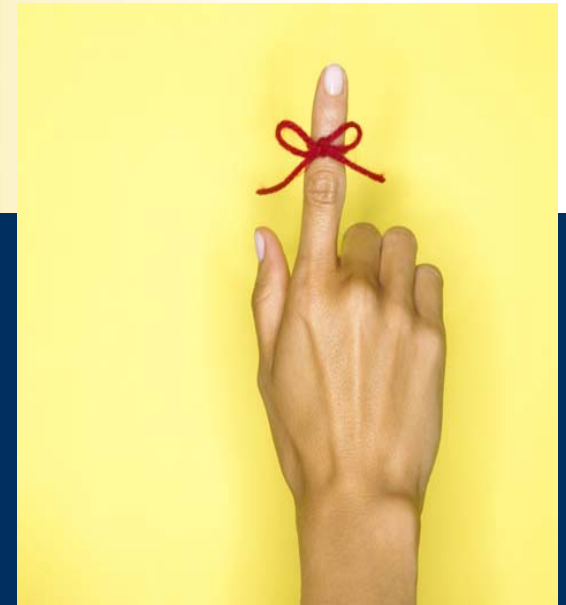
Signature of Employer or Authorized Representative <u>Betty Smith Sooner</u>	Print Name <u>Betty Smith Sooner</u>	Title <u>HR Representative</u>
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code) <u>444 Land Rd Atlanta GA 30327</u>		Date (month/day/year) <u>7/16/09</u> <u>BSS</u>

**Section 3. Updating and Reverification** (To be completed and signed by employer.)

A. New Name (if applicable)	B. Date of Rehire (month/day/year) (if applicable)	
C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment authorization.		
Document Title	Document #	Expiration Date (if any)
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 (month/day/year)

# Things to Remember

- U.S. passports, U.S. passport cards, Unrestricted Permanent Resident Cards, or List B Identity documents should not be re-verified.
- As of April 3, 2009, expired documents may not be accepted (unless they have been automatically extended – such as Temporary Protected Status).
- Social Security card marked “Not Valid for Employment” or “Only Valid with DHS Authorization” is not acceptable List C document.



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# Be Ready for An Audit



- Conduct periodic self-audits.
- Make sure that your staff knows how to properly complete the I-9 form.
- Keep I-9 forms in separate binder – not in personnel files.
- Purge I-9 forms when possible.
- Prepare your staff for a surprise visit from the government.

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# ICE Arrives - Notice of Inspection

- Three days notice prior to ICE review of I-9 Forms allowed (may waive but not recommended).
- Original, microfilm, microfiche or electronic I-9 forms acceptable for inspection.
- Personal appearance to give testimony and turn over documents may be required.
- Subpoena/warrant not required for I-9 inspection.



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# ICE Arrives – No Notice of Inspection

- Allowed by law - 3 days prior notice.
- Don't be persuaded to waive 3 day notice.
- Insist on written notice of inspection.
- ICE may not come back.



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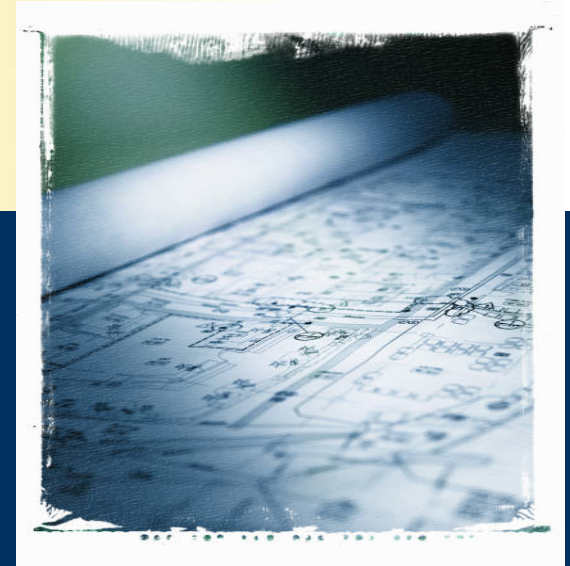
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# I-9 Forms At Different Location

- Inform ICE immediately if forms maintained at different location.
- Make arrangements for inspection at location where forms are maintained.
- Provide information to ICE in writing as proof of cooperation/good faith.



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# Providing Forms to ICE

- Notice of Inspection requires employer to produce documents for review.
- Review may be at employer's location or at ICE office.
- May, but not required to, turn over originals or copies of I-9 forms to ICE – may insist on inspection in presence of company representative.



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# What May Be Inspected?

- I-9 Forms for current employees hired after Nov. 6, 1986.
- I-9 Forms for terminated employees within the required retention period.
- Electronic employee listing.
- Quarterly wage and hour reports.
- Payroll data.
- SSA Mismatch correspondence.
- E-Verify and/or SSNVS documents.
- Business information (Employer ID number, owner's SSN/address, business licenses, etc.)



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# Search Warrant

- No 3 day notice required.
- Review search warrant.
- Monitor the search but do not interfere.
- Comply with terms of warrant.
- Do not resist.
- Notify/contact management and legal counsel immediately.
- Keep track of what is seized/taken.



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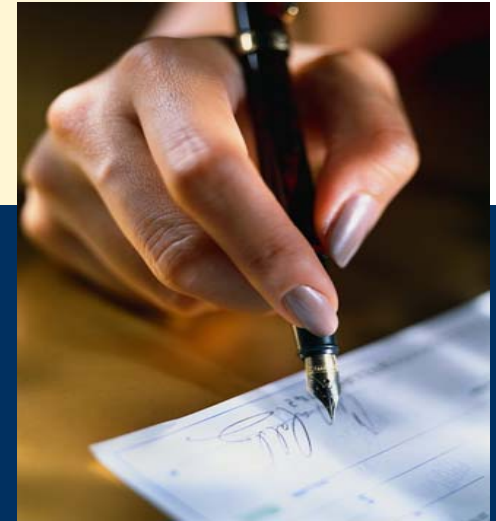
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# After ICE Inspection

- ICE issues Notice of Inspection Results if found in compliance.
- If not in compliance, may receive:
  - Notice of Technical or Procedural Failures.
  - Notice of Intent to Fine.
  - Notice of Suspect Documents.
  - Notice of Discrepancies.
  - Warning Notice.
- Notice of Intent to Fine – employer has opportunity to negotiate settlement or request hearing.



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# Monetary Penalties



- I-9 substantive/uncorrected technical violations (e.g., missing I-9) range from \$110 to \$1,100 per violation.
- Knowing hire/continuing to employ violations range from:
  - \$375-\$3,200 (1<sup>st</sup> violation)
  - \$3,200-\$6,500 (2<sup>nd</sup> violation)
  - \$4,300-\$16,000 (Subsequent violation)

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# Determining Penalty Amounts



- Factors considered for enhancement of fine or mitigation:
  - Good faith effort to comply;
  - Seriousness of violation;
  - Whether the violation involved unauthorized workers;
  - Size of business; and
  - History of previous violations.
- Violation percentage calculated to determine amount of fine for first, second, subsequent violations.

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# Criminal Penalties

- 10 years and/or \$250,000 fine for harboring, smuggling, concealing, or transporting illegal aliens for financial gain.
- Criminal sanctions for conspiracy to harbor, smuggle, conceal, or transport.



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# Be Ready for ICE Raid

Establish procedures if warrant presented.

Ensure supervisors know who to contact.

Designate a point person in each location to document all aspects of the raid.

Prepare employees for possible raid.

Be prepared to address media during and after raid.



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# No-Match Letters

- DHS rescinded No-Match Letter Rule originally issued in August 2007.
- Social Security Administration undecided whether to resume sending employers No-Match letters
- SSA will continue sending No-Match letters to employees



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# E-Verify



**VOLUNTARY** (unless required by state or federal law).

**E-Verify used to check newly-hired employee's eligibility to work in the U.S.**

**DHS campaign to “reward” employers who use E-Verify – “I E-Verify” stamp of approval if enroll, agree to I-9 audit and sign ICE Mutual Agreement to adhere to best standards practices.**

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# States Requiring E-Verify

- **AZ** - all employers
- **MS** – 100+ employees by July 1, 2009, 30+ employees by July 1, 2010, all employers by July 1, 2011.
- **SC** – 100+ employees by July 1, 2009, all employers by July 1, 2010.
- **Certain states require public employers and state contractors to use E-Verify (e.g., AR, CO, GA, MN, NE, RI, UT).**



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# E-Verify

- System checks SSA and DHS databases using information in Section 1 of I-9 form.
- Initiate E-Verify query within 3 business days of start date of employment.
- Only for newly-hired employees (unless covered by Federal Contractor E-Verify Rule.)
- Results: Employment Authorized or Tentative Non-Confirmation.



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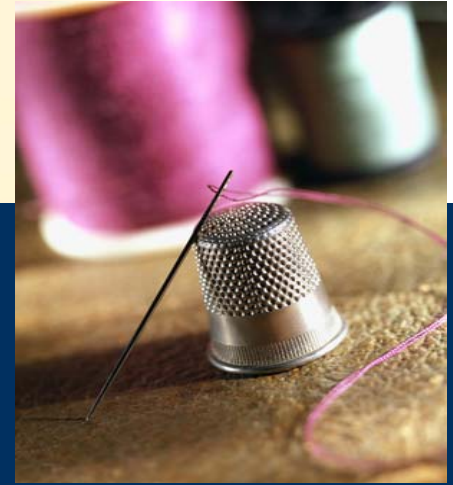
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# E-Verify

- Employee must:
  - provide SSN on I-9 Form;
  - present photo ID in connection with completion of I-9 Form.
- Employer must:
  - take no adverse action against employee during Tentative Non-Confirmation process.
  - post notices at job site notifying applicants/employees of E-Verify use.
  - sign Memorandum of Understanding between company, DHS and SSA.



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# Federal Contractor E-Verify

- Effective September 8, 2009.
- If clause in newly-awarded contract (or amended existing contract), must use E-Verify for all newly-hired employees and existing employees working directly on the contract.



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# Federal Contractor E-Verify



- Coverage:
  - Prime Federal Contracts: Value at least \$100,000 and period of performance 120 days or longer
  - Subcontractors covered if prime contract includes clause & for services or construction valued at \$3,000 or more.

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# Exemptions

- The FAR E-Verify Clause will not be inserted in the contract if:
  - Work is to be performed outside the U.S. only;
  - Value of contract is less than \$100,000;
  - Performance period less than 120 days;
  - Contract only for commercial available off-the-shelf (COTS) items and related services.



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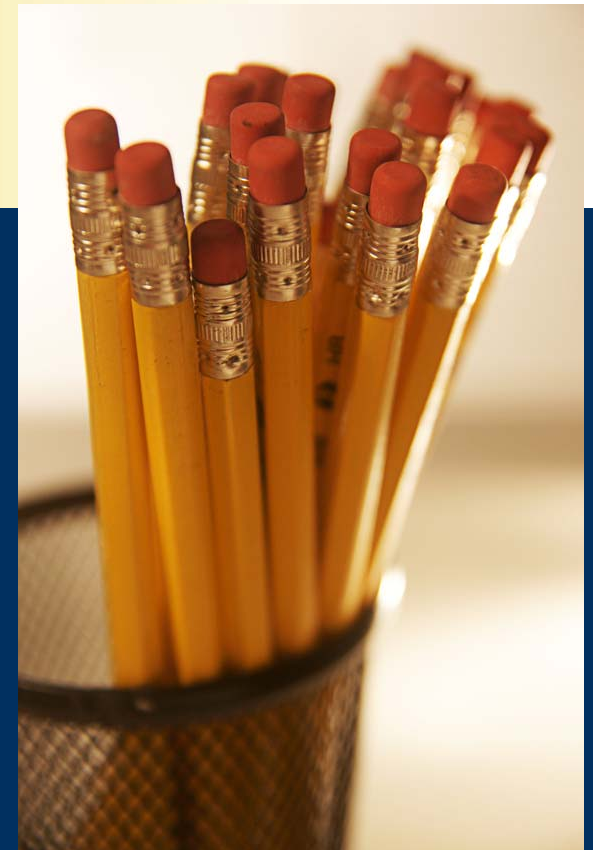
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# COTS Items

- COTS item is any item of supply customarily used by the general public (including construction material) that is:
  - sold in substantial quantities in the commercial marketplace; and
  - offered to the government without modification in the same form sold in the commercial marketplace.



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# Expanded COTS-Related Exemptions

- Federal contracts for food and agricultural products shipped as bulk cargo that would otherwise be categorized as COTS are also exempt from rule.
  - Examples: grain, oils and produce



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# I-9 Electronic Storage

- Replace paper I-9 forms by creating and storing I-9s electronically
- DHS allows electronic I-9 storage.
- For new hires and current employees
- Some electronic I-9 products allow for E-Verify synchronization and automatic expiring documents notification.



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# FISHER & PHILLIPS Electronic I-9 Solution

[www.laborlawyers.com/I-9Solution](http://www.laborlawyers.com/I-9Solution)

Department of Homeland Security  
U.S. Citizen and Immigration Services

OMB No. 1615-0047; Expires 06/30/08  
Employment Eligibility Verification

Please 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 eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute discrimination.

**Section 1. Employee Information and Verification.** To be completed and signed by employee at the time employment begins.

Print Name: Last: [ ] First: [ ] Middle Initial: [ ] Maiden Name: [ ]

Address (Street Name and Number): [ ] Apt #: [ ] Date Of Birth: [ ] [ ] [ ] [ ]

City: [ ] State: [ SELECT STATE ] Zip code: [ ] Social Security #: [ PENDING ]

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 or national of the United States.
- A Lawful Permanent Resident (Alien #) A [ ]
- An Alien authorized to work until [ ] [ ] [ ] (Alien # or Admission #) [ ]
- H-1b Portability

Employee's Signature: [ ] Date: [ ] [ ] [ ] [ ]

(Check to sign)

**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.

Preparer's/Translator's Signature: [ ] Print Name: [ ]

(Check to sign)

Address (Street Name and Number, City, State, Zip Code): [ ] Date: [ ] [ ] [ ] [ ]

**Section 2. Employee Review and Verification** To be completed and signed by an employer. Examine one document from List A OR examine one document from List B and one from List C as listed on the reverse of this form and record the title, number and expiration date, if any, of the document(s).

	List A (Show Sample)	OR	List B	AND	List C
Document title:	[ ]		[ ]		[ ]
Issuing authority:	[ ]		[ ]		[ ]
Document #:	[ ]		[ ]		[ ]
Expiration Date:	[ ] [ ] [ ]		[ ] [ ] [ ]		[ ] [ ] [ ]
Document title #:	[ ]		[ ]		[ ]
Expiration Date:	[ ] [ ] [ ]		[ ] [ ] [ ]		[ ] [ ] [ ]
Document #:	[ ]		[ ]		[ ]
Expiration Date:	[ ] [ ] [ ]		[ ] [ ] [ ]		[ ] [ ] [ ]

**CERTIFICATION** - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment [ January ] [ 7 ] [ 2009 ] and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative: [ ] Print Name: [ ] Title: [ ]

(Check to sign)

Business or Organization Name: [ ] Address (Street Name and Number, City, State, Zip Code): [ ] Date: [ ] [ ] [ ]

Form I-9 (Rev. 06/05/07) N

Employee Terminated

Run Checks Only | Save I-9 & Print | Update Section 3

Save & Return to Menu | Cancel & Return to Menu | Documents Utility

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# Thank You

*Presented by:*

**Kim Kiel Thompson, Esq.**

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