NAVIGATING THE COMPLEX U.S. IMMIGRATION SYSTEM IN 2025

SHRM OF GREATER TUCSON

SEPTEMBER 9, 2025

PRESENTER:

MAURICE "MO" GOLDMAN

GOLDMAN IMMIGRATION, PC

(520) 271-3175

MO@GGOLDMANLAW.COM

ANATOMY OF I-9 AUDITS & ICE HOMELAND SECURITY INVESTIGATIONS

BASICS OF I-9 ENFORCEMENT

- Congress passed the Immigration Reform and Control Act (IRCA) in 1986 in an attempt to reduce illegal immigration.
- IRCA forbids employers from knowingly hiring individuals who do not have work authorization in the United States.
- People who may work legally in the United States are:
  - Citizens of the United States
  - Noncitizen nationals of the United States
  - Lawful Permanent Residents
  - Noncitizens with valid work authorization

I-9 REQUIREMENTS

- All U.S. employers must have a Form I-9 on file for all current employees.
- You may delegate the authority to complete Form I-9 to a responsible agent, however, you will retain liability for any errors.
- You are not required to complete Form I-9 for:
  - Independent contractors for whom you do not set work hours or provide tools to do the job.
  - Employees working outside of the United States.*
- *50 States, District of Columbia, Guam, Puerto Rico, U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands

I-9 GLOSSARY

- Notice of Inspection (NOI)- commonly known as the "I-9 audit"
- U.S. Immigration and Customs Enforcement (ICE)- A division of the U.S. Department of Homeland Security
- Homeland Security Investigations (HSI)- Division of ICE that conducts federal criminal investigations into the illegal movement of people, goods, money, contraband, weapons and sensitive technology into, out of and through the United States.
- OCAHO – Office of the Chief Administrative Hearing Officer – the administrative law judge that reviews I-9 audit compliance

WHAT IS I-9 VERIFICATION?

- To comply with the employment eligibility verification provisions of the Immigration and Nationality Act an employer must:
  - Verify the identity and employment authorization documents of employees hired after November 6, 1986
  - Complete and retain a Form I-9 for each employee hired after November 6, 1986
- Avoid asking for specific documents to prove work authorization because it can be considered discrimination based on actual or perceived national origin, citizenship, or immigration status
- Look at I-9 Central: https://www.uscis.gov/i-9-central
- Documents to establish identity and employment authorization (next slide)

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 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. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		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 report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240)
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa		3. School ID card with a photograph		3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
4. Employment Authorization Document that contains a photograph (Form I-766)		4. Voter's registration card		4. Native American tribal document
5. For an individual temporarily authorized to work for a specific employer because of his or her status or parole: 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 individual's status or parole 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		5. U.S. Citizen ID Card (Form I-197)
		6. Military dependent's ID card		6. Identification Card for Use of Resident Citizen in the United States (Form I-179)
		7. U.S. Coast Guard Merchant Mariner Card		7. Employment authorization document issued by the Department of Homeland Security For examples, see Section 7 and Section 13 of the M-274 on uscis.gov/i-9-central. The Form I-766, Employment Authorization Document, is a List A, **Item Number 4.** document, not a List C document.
		8. Native American tribal document		
		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		
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				

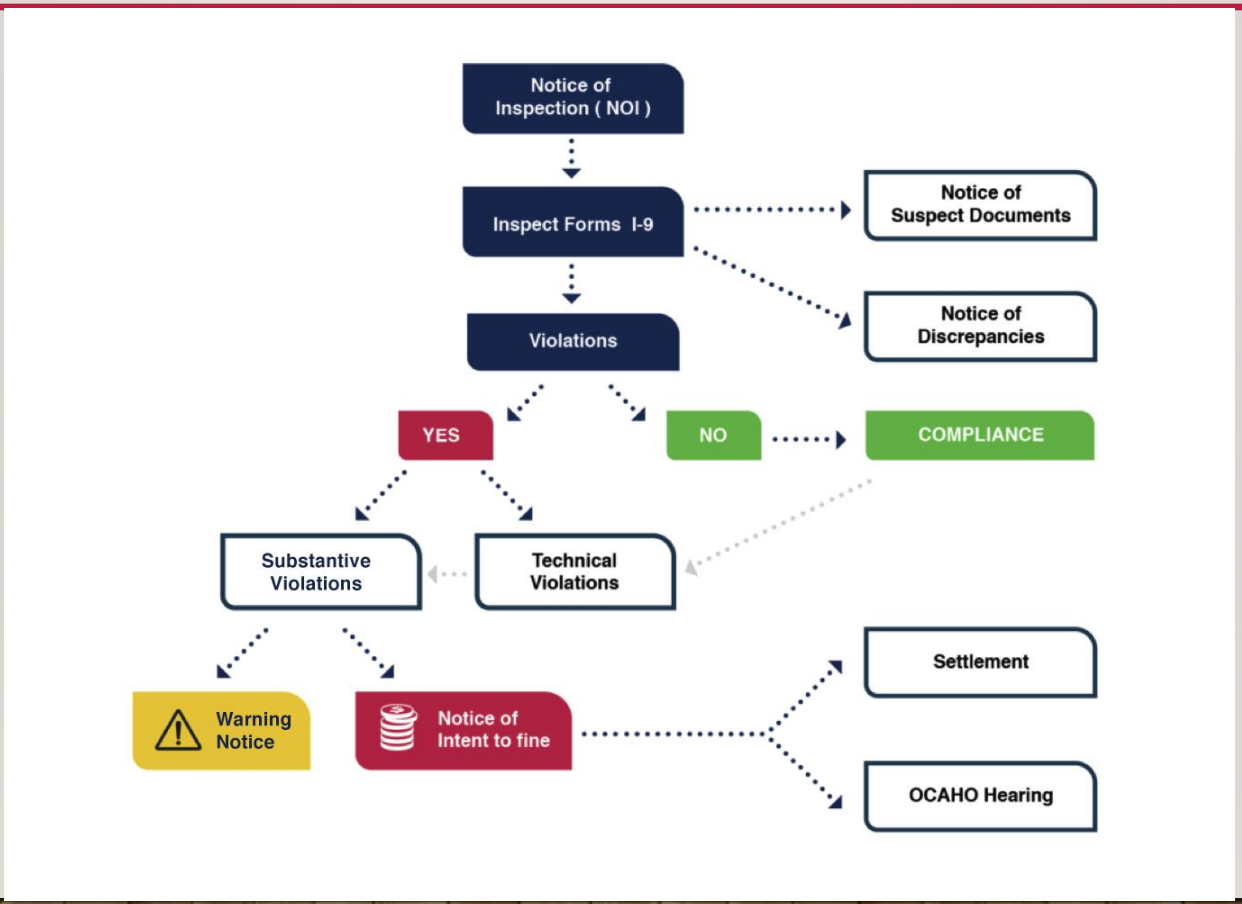
Acceptable Receipts

May be presented in lieu of a document listed above for a temporary period.

For receipt validity dates, see the M-274.

• Receipt for a replacement of a lost, stolen, or damaged List A document. • Form I-94 issued to a lawful permanent resident that contains an I-551 stamp and a photograph of the individual. • Form I-94 with "RE" notation or refugee stamp issued to a refugee.	OR	Receipt for a replacement of a lost, stolen, or damaged List B document.	Receipt for a replacement of a lost, stolen, or damaged List C document.

ICE AUDIT FLOWCHART



ICE AUDIT TIMELINE

- ICE agents issue a Notice of Inspection (NOI) to produce I-9 documents
- Employer has 3 business days to produce I-9 forms (may be able to request an extension up to 7 business days)
- ICE can request supporting documentation, including a copy of payroll, a list of current employees, Articles of Incorporation, and business licenses
- ICE can request records of terminated employees for up to a year after termination

WHAT TO DO IF ICE COMES A KNOCKIN'

- ICE agents may legally enter any public-facing area of the business
- ICE agents will issue a subpoena asking for the production of I-9 documents within three business days (can ask for extension)
- Can record ICE agents from a reasonable distance
- If it is a contract auditor- no authority to issue a subpoena for documents, but the production deadline of 3 days still applies
- CALL an immigration compliance/worksite enforcement attorney immediately! Give them a copy of any subpoena. Do not turn over any documents yet!

POTENTIAL FINES FOR AUDIT NON-COMPLIANCE

- Monetary fines
- "knowingly hiring and continuing to employ" unauthorized workers: $375-$16K per violation
- "Not producing an I-9": $110 to $1100 per violation
- Factors: size of business, good faith efforts at compliance, seriousness of violation, previous history of violations
- Possible criminal prosecution
- If ICE can establish a "pattern or practice" of employing unauthorized workers
- Debarment from federal contracts and government benefits.

PENALTIES FOR I-9 VIOLATIONS

Knowing Hire / Continuing to Employ Fine Schedule
(Effective for penalties assessed after January 27, 2017 whose associated violations occurred after November 2, 2015)

Knowing Hire and Continuing to Employ Violations	Standard Fine Amount First Tier $548 - $4,384	Second Tier $4,384 - $10,957	Third Tier $6,575 - $21,916
0% – 9%	$548	$4,384	$6,575
10% – 19%	$1,140	$6,322	$8,547
20% – 29%	$1,754	$7,232	$11,177
30% – 39%	$2,411	$8,174	$13,807
40% – 49%	$3,069	$9,094	$16,568
50% or more	$3,726	$10,026	$19,242

HOW FINES ARE ASSESSED

- The ICE auditor will consider the following factors when issuing fines in the Notice of Intent to Fine:
  - The size of the business
  - The employer's good faith
  - The seriousness of the offense
  - Actual employment of unauthorized aliens
  - Previous history of immigration violations

TOP TIPS FOR I-9 COMPLIANCE

- #10: Employers should never make changes to section 1 of the I-9, which can only be completed or corrected by the employee (or a translator).
- #9: Changes to sections 2 & 3 should be made in red ink, dated, and initialed where required.
- #8: Use the additional information section to document any changes to the I-9 that occurred since the document was originally filled out.
- #7: Do not ask employees for any specific ID documents because this could open the employer up to a national origin discrimination lawsuit.
- #6: Have the employee complete Section 1 of the I-9 no later than the first day of employment.
- #5: Complete Section 2 within 3 business days of hire.

TOP TIPS FOR I-9 COMPLIANCE

- #4: Refer to employer handbook M-247 on the USCIS website for more information. If there's a valid reason for correcting the I-9:
  - Draw a line through incorrect information;
  - Enter the correct or missing information; and
  - Initial and date the correction or missing information.
  - Attach a written explanation of why information was missing or needed correction or document all changes electronically if you use the electronic I-9.
- #3: To correct multiple errors, you can redo the section on a new form I-9 and attach it to the old form. You should attach a written explanation describing why you made changes or created a new form I-9.
- #2: Keep copies of the I-9 for all employees 3 years after hire or 1 year after termination, whichever is later.
- #1: Contact a workplace compliance attorney to help you review I-9 forms before submitting anything to the government.

LEGAL PATHWAYS FOR IMMIGRANTS

- H-1B Visas (Specialty Worker- Bachelor Degree)
- O-1 Visas (Extraordinary Ability)
- TN Visas (Mexico/Canada)
- J-1 Visas (Exchange Visitor)
- F-1 Visas (Students)
- All other categories – B2, P, L, etc.
- Legal Permanent Residency (PERM Process and others)
- Employment Authorization Documents (EAD's)

WHO CAN GET A WORK PERMIT (EAD)?

- Many different categories for Employment Authorization Documents (EADs)
- Examples: DACA, TPS, Pending Asylum, and Others (All categories can be found here: https://www.uscis.gov/i-765)
- File on Form I-765 with filing fee
- Automatic extensions

MAURICE "MO" GOLDMAN
GOLDMAN IMMIGRATION, PC
(520) 271-3175
MO@GGOLDMANLAW.COM

THANK YOU!