

ICE

Employment Eligibility Verification

Form I-9



U.S. Immigration
and Customs
Enforcement

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Background



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Background

In 1986, in an effort to control illegal immigration, Congress passed the **Immigration Reform and Control Act (IRCA)**.

IRCA forbids employers from knowingly hiring individuals who do not have work authorization in the United States.

The employment eligibility verification provisions of **IRCA** are found in Section 274A of the Immigration and Nationality Act (INA).



Background

Individuals who may legally work in the United States are:

- Citizens of the United States
- Noncitizen nationals of the United States
- Lawful Permanent Residents
- Aliens authorized to work



Background

To comply with the employment eligibility verification provisions of the INA 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
- Refrain from discriminating against individuals on the basis of actual or perceived national origin, citizenship or immigration status



Background

The anti-discrimination provisions of the INA prohibit four types of unlawful conduct:

- Citizenship or immigration status discrimination*
- National origin discrimination*
- Document abuse during Form I-9 process
- Retaliation

* Actual or perceived



Background

The anti-discrimination provisions of the INA are enforced by the:

Department of Justice

Civil Rights Division

Office of Special Counsel for

Immigration Related Unfair Employment Practices

- Employees may contact the Office of Special Counsel (OSC) to obtain additional information regarding discrimination and employee rights and responsibilities.

1-800-255-7688 (TDD: 1-800-616-5525)

- Employers may also contact OSC and remain anonymous.

1-800-255-8155 (TDD: 1-800-362-2735)



Background

Form I-9 is an employment verification tool brought about by **IRCA**.

Form I-9 helps verify whether individuals are authorized to work in the United States.

Employers who knowingly violate or circumvent the Form I-9 process, or anti-discrimination requirements of the INA may be subject to civil and/or criminal penalties.



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Completing Form I-9



U.S. Immigration
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Completing Form I-9

All U.S. employers must have a **Form I-9** on file for all current employees.

Exception: Employers are not required to have Forms I-9 for employees hired on or before November 6, 1986.

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:

- Domestic service employees working in a private household when work is sporadic, irregular or intermittent.
- Independent contractors for whom you do not set work hours, or provide tools to do the job.
- Employees working outside the United States.*

** 50 States, District of Columbia, Guam, Puerto Rico, U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands*



Mergers and Acquisitions

Employers who acquire employees from a previous employer through a merger or acquisition can either:

- 1) Treat acquired workers as newly hired employees and complete new Forms I-9.
- 2) Consider them as continuing in employment and retain the previous Forms I-9 and retain Form I-9 liability for any previous mistakes.

Under one or two, all acquired employees should be treated the same to avoid discrimination concerns.



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Completing Form I-9 . . . Putting the Pen to Paper



U.S. Immigration
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Section 1: Employee Information & Verification

OMB No. 1615-0047; Expires 08/31/12
**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	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 #

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 #) _____
until (expiration date, if applicable - *month/day/year*)

Employee's Signature

Date *(month/day/year)*



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- To be completed by **EMPLOYEE.**
- Employer **MUST** verify Section 1 is **COMPLETE.**

Section 1: Employee Attestation

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 #) _____

until (expiration date, if applicable - *month/day/year*)

Employee's Signature

Date (*month/day/year*)

- The EMPLOYEE **MUST** select one of the four categories and sign and date Section 1 of Form I-9.
- All employees must complete Section 1 no later than the first business day of employment for pay.



Section 1: Preparer/Translator Certification

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)*

- This certification is required when Section 1 is prepared by someone other than the employee.
- By signing, the preparer is attesting that Section 1 is true and correct to the best of his/her knowledge.
- Note that only the EMPLOYEE can sign the Section 1 Employee Signature Block.



Section 2: Employer Certification of Document Review

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: _____		_____		_____
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 authorized 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)

- Completed by **EMPLOYER**.
- MUST be completed no later than **3 business days** after the employee begins work for pay.
- EMPLOYER MUST examine **original documents**.
- Documents MUST be **UNEXPIRED**.



Section 2: Lists of Acceptable Documents

LISTS OF ACCEPTABLE DOCUMENTS			
All documents must be unexpired			
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	OR	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	
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		AND	
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa			1. Social Security Account Number card other than one that specifies on the face that the issuance of the card does not authorize employment in the United States
4. Employment Authorization Document that contains a photograph (Form I-766)		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)
5. In the case of a nonimmigrant alien authorized to work for a specific employer incident to status, a foreign passport with Form I-94 or Form I-94A bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, as long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form		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
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	5. U.S. Military card or draft record	5. Native American tribal document	
	6. Military dependent's ID card	AND	
	7. U.S. Coast Guard Merchant Mariner Card		6. U.S. Citizen ID Card (Form I-197)
	8. Native American tribal document	9. Driver's license issued by a Canadian government authority	7. Identification Card for Use of Resident Citizen in the United States (Form I-179)
	For persons under age 18 who are unable to present a document listed above:		
	10. School record or report card	AND	
	11. Clinic, doctor, or hospital record		8. Employment authorization document issued by the Department of Homeland Security
	12. Day-care or nursery school record		

- You must make the Lists of Acceptable Documents **available** to your EMPLOYEE when he/she is completing the Form I-9.
- Make sure you use Form I-9 with (**Rev. 02/02/09**) or (**Rev. 08/07/09**) – expiration date for both forms is **08/31/2012**.



Section 2: Lists of Acceptable Documents

List A		List B		List C
Establishes Identity and Employment Authorization		Establishes Identity	&	Establishes Employment Authorization
List A	OR	List B	<u>AND</u>	List C
Document title: _____		_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____				

The **EMPLOYEE MUST** provide either:

- One document from **List A** OR
- One document from **List B** AND one document from **List C**



Section 2: Documents – Genuineness and Photocopies

- You are not required to be a document expert.
- You **MUST** accept a document presented by an employee, if it reasonably appears to be:
 - Genuine AND
 - Relates to the individual presenting it
- The document **MUST** be original* – Photocopies are NOT acceptable.

**The only exception is a certified copy of a birth certificate.*



Section 2: Receipt Rule

- Receipts may be used as temporary proof of employment eligibility when a List A, B or C document has been **lost, stolen or destroyed**.
- The receipt must be issued by the originating agency.
- The employee must **present** a replacement document within 90 days of the hire date.



Section 2: Receipt Rule

- A receipt indicating that an individual has applied for an **initial** employment authorization document (Form I-766) or for an **extension** of an expiring employment authorization document (Form I-766) is **NOT** acceptable for Form I-9 completion.
- Receipts are **never** acceptable if employment will last less than 3 business days.



Section 2: Copying Documents Presented

You may choose to make copies of employee documentation presented to you for Section 2.

- If you choose to photocopy documents, you **MUST** do so for **ALL** employees, regardless of actual or perceived national origin, immigration or citizenship status, or you may be in violation of anti-discrimination laws.



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

A. New Name <i>(if applicable)</i>	B. Date of Rehire <i>(month/day/year)</i> <i>(if applicable)</i>
------------------------------------	--

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 <i>(month/day/year)</i>
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- You **MUST** reverify an employee on Section 3 or on a new Form I-9 if his/her temporary employment authorization has expired.
- You **MAY** also complete Section 3 if you:
 - **Rehire** the EMPLOYEE within 3 years of original hire date*
 - **Update** the biographic information of an employee

*You may complete a new Form I-9 for rehires

Do Not Reverify

- U.S. Passport or Passport Card
- Permanent Resident Card (Form I-551)
- List B documents

Permanent Resident Reverification Exceptions

- Reverify only if employee presents a Form I-94 with a temporary I-551 stamp, or
- A foreign passport with a temporary I-551 stamp (on a machine readable immigrant visa (MRIV))

Usually Reverify

- When employment authorization document (List A or C) has an expiration date



Correcting Mistakes

- If you discover a mistake on Form I-9:
 - Correct the existing form **OR** prepare a new Form I-9.
 - If you choose to correct the existing Form I-9, **line out** the incorrect portions, **enter** the correct information, and **initial** and **date** the correction.
 - If you prepare a **new** Form I-9, **retain** the old form. You should also **attach** a short memo to both the new and old Forms I-9 **explaining** the reason for your action.



Missing Forms

- If you discover you are missing the Form I-9 for an employee:
 - **Immediately** provide the employee with a Form I-9.
 - **Allow** employee 3 business days to provide acceptable documents.
 - **DO NOT** backdate the Form I-9.



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Storage and Retention



U.S. Immigration
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Storage

- Form I-9 **MUST** be on file for all current employees.
- Store Forms I-9 **securely** in a way that meets your business needs – on site, off-site, storage facility or electronically.
- Store Forms I-9 and document copies **together**.
- Ensure that only **authorized** personnel have access to stored Forms I-9.
- Make Forms I-9 **available** within 3 days of an official request for inspection.



Retention

Forms I-9 must be stored for three (3) years after the date you hire an employee

OR

One (1) year after the date you or the employee terminates employment, whichever is later.



Retention

- To identify the retention date, add 3 years to the hire date and add 1 year to the date employment was terminated. The date that is later is the retention date.

Example -

John Doe was hired on November 1, 1993, and on July 5, 1994, employment was terminated.

November 1, 1993 + **3 years** = November 1, 1996

July 5, 1994 + **1 year** = July 5, 1995

The **retention date** is November 1, 1996.



Form I-9 Information

Form I-9 Employment Eligibility Verification

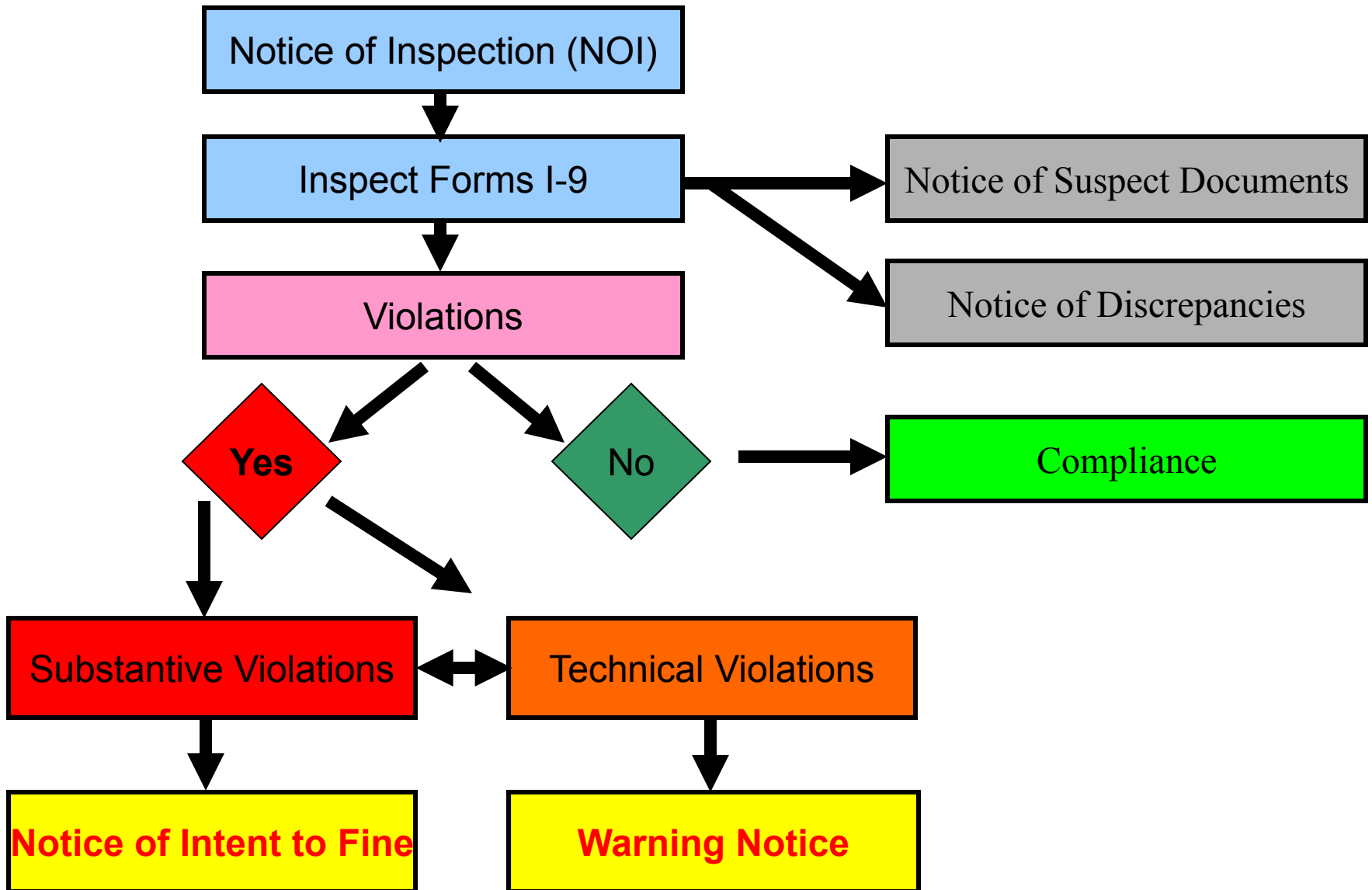
<http://www.uscis.gov/files/form/i-9.pdf>

Form M-274, *Handbook for Employers*

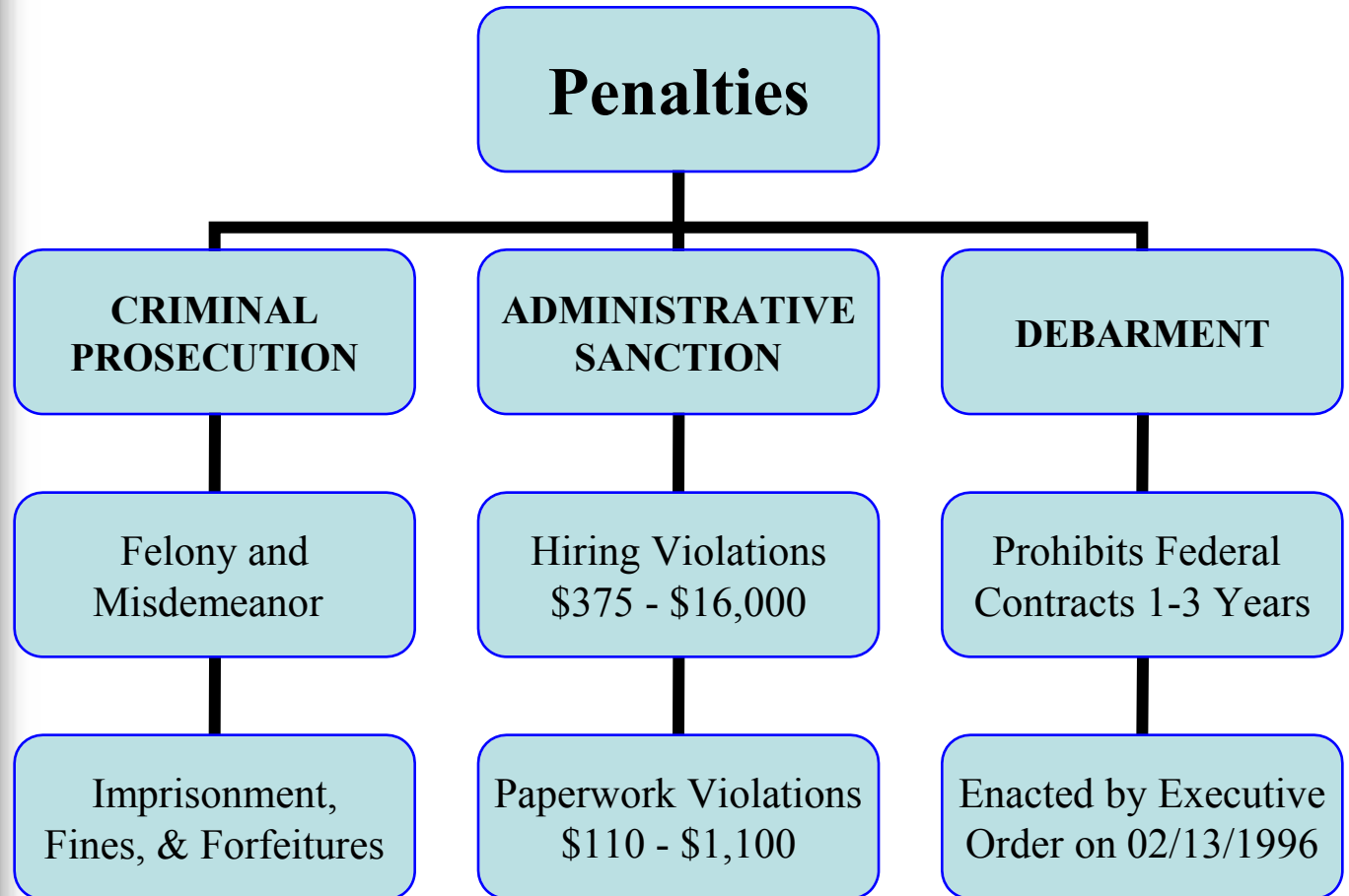
<http://www.uscis.gov/files/nativedocuments/m-274.pdf>



Form I-9 Inspection Process



Consequences of Hiring Unauthorized Aliens



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Self-Audit/Inspections



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Proper Self-Audit Procedures Overview

- Generate a computer printout of all employees, including the date of hire and termination date, for employees hired after November 6, 1986, or date of last audit
- Verification records which are no longer required to be maintained by law should be separated from the audit file
- Remaining Form I-9s may be separated from other personnel records and reviewed for completeness, mistakes, and omissions



Proper Self-Audit Procedures Overview

- Make sure you have a Form I-9 for EVERY employee subject to retention requirements
- Corrections made to the Form I-9 should be made to the original or most recent only and never white out or back date (if you are missing a Form I-9, generate new Form I-9 with the employee and attach explanation)
- If a new Form I-9 is generated for any reason, maintain the original and affix it to the new or updated one



Proper Self-Audit Procedures Overview

- Review any Request for Employer Information letters received from the Social Security Administration and address any issues
- A checklist should be utilized and affixed to all Forms I-9 that require correction. The checklist must cover all areas of the Form I-9 that potentially require action either by the employee or employer, and if any prior updates or corrections have been made, and by whom



Proper Self-Audit Procedures Overview

- Self-audits should be conducted only by trained personnel either from an outside source or by employees who are not part of the normal verification process
- A two-tier management review of the audit is recommended
- Take immediate steps to bring your company into compliance
- Prepare a final report documenting all actions of the self-audit including results and recommendations



Audit/Inspection Trail

What is the audit/ inspection trail?

- Forms I-9 can be retained on paper, microfilm, microfiche, or electronically.
- The audit trail shows the actions for every Form I-9 stored on a system.
- You should know when the original Form I-9 was completed, re-verified, viewed and by whom. Any action on the Form I-9 should show on the audit trail.



Retaining Copies of Documentation

- While it is an IMAGE Best Practice to retain copies, the law says this;
- 8 C.F.R. § 274a.2(b)(3) states:
- **(3) Copying of documentation.**
- An employer, or a recruiter or referrer for a fee may, but is not required to, copy or make an electronic image of a document presented by an individual solely for the purpose of complying with the verification requirements of this section. If such a copy or electronic image is made, **it must be retained with the Form I-9.**



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Thank You

www.ice.gov/image

image@dhs.gov

**Report Suspicious Activity
1-866-DHS-2-ICE**

www.ice.gov/image



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