

## Contracting Agency / U.S. Immigration and Customs Enforcement Agency

In 2003, the Immigration and Naturalization Service, a Federal agency responsible for enforcing immigration laws, joined the Department of Homeland Security ([DHS](#)) and was reorganized into three agencies: U.S. Citizenship and Immigration Services ([USCIS](#)); U.S. Immigration and Customs Enforcement Agency ([ICE](#)); and U.S. Customs and Border Protection ([CBP](#)). The USCIS manages the process that allows individuals from other countries to work in the United States. The ICE is the principal investigative arm of the DHS and relies upon a combination of civil and criminal authorities to enforce Federal laws governing border control, customs, trade, and immigration. The CBP is responsible for securing U.S. borders and facilitating legitimate trade and travel.

All U.S. employers are responsible for verifying every worker, citizens and non-citizens, whom they employ or plan to employ in the United States is authorized to accept employment in the United States. A worker may not accept employment in the United States without being authorized to do so. See USCIS "[Information for Employers and Employees](#)." In 1986, the Immigration Reform and Control Act (IRCA) prohibited employers from knowingly hiring individuals who did not have authorization to work in the United States. The employment eligibility verification provisions of IRCA were provided in Section 274A of the Immigration and Nationality Act. These provisions require employers to 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; and refrain from discriminating against individuals on the basis of actual or perceived national origin, citizenship, or immigration status.

Employers are required to use [Form I-9](#) to verify whether an individual is authorized to work in the United States. The employer must examine the employment eligibility and identity document(s) an employee presents to determine whether those document(s) reasonably appear to be genuine and relate to the individual. The document(s) information is recorded on the Form I-9. A list of acceptable documents is found on the last page of the [Form I-9](#). Once the individual's employment ends, employers must retain completed Forms I-9 for all employees for 3 years after the date they hire an employee or 1 year after the date employment is terminated, whichever is later.

As a condition of the contract, the contractor and its subcontractors must comply with all Federal, State, and local laws. As the administrator of the contract, the contracting agency has an affirmative duty or responsibility to ensure compliance with Federal law. Only the ICE agency has the legal authority to enforce Federal immigration laws and regulations. Likewise, only the U.S. Department of Labor (USDOL) has legal authority to enforce Federal labor laws and regulations.

When a contracting agency has sufficient reason to question the eligibility of workers, it should take the necessary steps to document the contractor's compliance with the Form I-9 requirements. This may include:

1. Making a written request to the contractor for proof that the subject worker is verified as eligible to work in the United States. At a minimum, the proof should include the actual employment eligibility and identification documents recorded on Form I-9.
2. When the contractor does not provide the requested information or the requested information is provided but there are still concerns with the validity of that information, ICE should be contacted to initiate an investigation. Refer to [ICE Worksite Enforcement](#).
3. When there is concern involving possible violation of Federal labor laws, the USDOL should be contacted and involved in the investigation, as necessary.
4. The contracting agency may request the Federal Highway Administration (FHWA) Division Office's assistance in coordinating issues with ICE and/or USDOL on projects subject to FHWA oversight or State-administered projects.