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**The “Do’s and Don’ts” of Ag Labor
Immigration for Farmers and Agribusinesses**

Requirements, Filing Tips & Best Practices

Brandon Davis

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**Starting With The
Political Climate**

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The Political Climate

Donald Trump is POTUS

- Advocates an end to “illegal immigration;”
- Has advocated pro-enforcement/anti-foreign national immigration reform:
 - Decreased visa numbers
 - Increased employer-regulations
 - Enhanced employer-compliance
 - No Amnesty



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Understanding the H-2A Programs



Overview of Department of Labor's Office of Foreign Labor Certification

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Understanding the H-2A Programs

Overview of the Immigration Process

- Step 1** Obtain a labor certification from the **Department of Labor**
- Requires conducting a labor market test with the State Workforce Agency where work will be performed
- Step 2** Obtain an approved petition from the **DHS United States Citizenship and Immigration Service** for a specific number of workers under H-2A visa classification
- Step 3** After receiving USCIS petition approval, workers will apply with one of the **Department of State** visa-issuing consulates abroad for an H-2A visa
- Step 4** After receiving the visa from a DOS consulate, workers arrive at a port of entry where **DHS's Customs and Border Protection** officers verify eligibility for admission and length of stay

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Department of Labor

Office of Foreign Labor Certification - Overview

- Through a delegation from the Secretary of Labor, OFLC administers employment-based immigration programs
 - “Employment-based” means that an employer and not the foreign worker is filing an application
- OFLC certifies to DHS-USCIS and DOS that:
 1. There are not sufficient U.S. workers who are able, willing, qualified, and available for the requested positions; and that the
 2. Employment of the foreign worker(s) will not adversely affect the wages and working conditions of similarly employed U.S. workers

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H-2A Agriculture Program

Sample Wage Offers on Form ETA-790

- Make sure wage offer(s) match the Form ETA-9142A in each of the crops and commodities

| 17. Wage Rates, Special Pay Information and Deductions / Tarifa de Pago, Información Sobre Pagos Especiales y Deducciones (Rebajas) | | | | | | | |
|---|------------------|-----------------------------|-------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|---|
| Crop Activities | Hourly Wage | Piece Rate / Unit(s) | Special Pay (bonus, etc.) | Deductions* | Yes/Sí | No | Pay Period / Período de Pago |
| Cultivos | Salario por Hora | Pago por Pieza / Unidad(es) | Pagos Especiales (Bono, etc.) | Deducciones | | | / / |
| Apple Harvest | \$11.74 | \$1.00 per 1-1/8 BU. Box | | Social Security / Seguro Social | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Weekly / Semanal <input checked="" type="checkbox"/> |
| Orchard Labor | \$11.74 | | | Federal Tax / Impuestos Federales | <input checked="" type="checkbox"/> | <input type="checkbox"/> | |
| Apple Packing | \$11.74 | | | State Tax / Impuestos Estatales | <input checked="" type="checkbox"/> | <input type="checkbox"/> | Bi-weekly / Quincenal |
| | | | | Meals / Comidas | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| | | | | Other (specify) / Otro (especifica) | <input type="checkbox"/> | <input checked="" type="checkbox"/> | Monthly/Mensual <input type="checkbox"/> |

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H-2A Agriculture Program

Wage Setting Requirements

Job Descriptions: Be Thorough, Yet Concise

- **DO** be concise, but adequately thorough to avoid RFI and expedite processing
- **DON'T** include information unrelated to job duties and unnecessary to determine the skill, knowledge, and experience requirements for the job
 - Do not include "worker notice" statements that detail the workweek, pay schedule, age requirements, or other details unrelated to the duties and qualifications required to perform them
 - Do not include statements about lodging
 - Do not restate the legal requirements outlined in the regulation
 - Just because something is needed for advertising does not mean it has to be in the PWD job duties

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Department of Labor: H-2A Program

SWA Job Order Filing Requirements

H-2A Agriculture

STEP 2: Submit Job Order to State Workforce Agency

- Submits Form ETA-790 and informs SWA of intent to file a future application for H-2A workers
- Job order must meet the content requirements at 20 CFR 653 Subpart F and 20 CFR 655.122
- SWA reviews job order, notifies *employer* of deficiencies within 7 calendar days **OR** if acceptable, begins in-state recruitment
- Request that State Agency inspect housing for farmworkers (if applicable)

Regulatory Timeframe: Between 75 and 60 days before work start date

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H-2A Agricultural Program

Preparing the Form ETA-790 – General Requirements

- Employer's job opportunity must . . .
 - Offer to U.S. workers no less than the same benefits, wages, and working conditions that the employer is offering, intends to offer, or will provide to H-2A workers
 - Not impose on U.S. workers any restrictions or obligations that will not be imposed on H-2A workers
 - Offer job qualifications and requirements that are bona fide and consistent with the normal and accepted qualifications required by employers that do not use H-2A workers in the same or comparable occupations and crops
 - CO or SWA may require employer to submit documentation substantiating the appropriateness of any qualification contained in the ETA Form 790

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H-2A Agricultural Program

Tips for Preparing the Form ETA-790

- Make sure the job order contains the minimum content requirements under 20 CFR 655.122(d)

| Minimum Benefits, Wages, and Working Conditions | Regulatory Citation(s) |
|--|------------------------|
| Provision of Housing | 655.122(d) |
| Provision of Workers' Compensation | 655.122(e) |
| Provision of Tools, Supplies, and Equipment | 655.122(f) |
| Provision of Meals or Cooking Facilities | 655.122(g) |
| Provision of Transportation and Daily Subsistence | 655.122(h) |
| Three-Fourths Guarantee | 655.122(i) |
| Hours/Earnings Records, Rates and Frequency of Pay | 655.122(j) through (m) |
| Abandonment or Termination for Cause | 655.122(n) |
| Contract Impossibility | 655.122(o) |
| Required Deductions from Worker's Pay | 655.122(p) |
| Work Contract or ETA Form 790 and attachments | 655.122(q) |

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Tips for Preparing the Form ETA-790

- Make sure the job description/requirements **match** the Form ETA-9142A and are normal and accepted by non-H-2A employers in the same or comparable occupations and crops

16. Job description and requirements / Descripción y requisitos del trabajo:

All applicants must be able, willing and qualified to perform the work described in this job description and must be available for the entire period of employment specified in Box 9 on Page 1. This work order is for qualified people to perform the duties of general orchard work and harvesting produce in an apple orchard. Workers must have the knowledge and ability to prune, thin and train apple trees, and be willing to work in varied weather conditions – during harvest as high as 90 degrees with damp fall mornings. Workers must be able to handle and climb a 20 foot ladder repetitively while carrying an apple picking bucket which is harnessed over the workers shoulders. Other duties will include picking rocks to prepare soil for planting, training and pruning apple trees, driving tractor, picking up brush from orchard floor, repairing broken bins, and planting and watering trees. Workers may work in a packing house and drive truck to remove apple bins from the outlying orchards at harvest time. The employer will provide 1 day of training and allow 2 days of work for the worker to reach production standards. When harvesting apples, productivity must be at least 60 1-1/8 bushel boxes per 7 hours worked with no more than 5% bruising for fresh market. Work requires long periods of standing, bending and kneeling. Workers must be able to lift and carry up to 50 pounds and be available to work Monday through Saturday. Employer will furnish to workers without cost all tools and equipment required to perform duties assigned. Worker will be given 30 minutes for lunch. Beginning and ending times will vary depending on the conditions in the orchard. Workers must be able to take directions in simple English.

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Department of Labor: H-2A Program

Comparing Application Filing Requirements

H-2A Agriculture

STEP 3: Submit Application to DOL-OFLC

- U.S. mail or electronic iCERT System *FY 2016 = 79% employers filed electronically*

Basic H-2A application

- ✓ Form ETA-9142A and Appendix A
- ✓ Form ETA-790 (job order)
- ✓ Workers' compensation coverage *(if available)*
- ✓ Housing inspection report *(if available)*
- ✓ Farm labor contractor license *(if applicable)*
- ✓ Additional documentation for H-2A labor contractors *(e.g., surety bond, executed work contracts with local growers)*

Statutory Timeframe: No later than 45 days before work start date

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H-2A Program

General Filing Tips & Issues

- Ensure all required fields on the ETA-9142A/B are **completed** prior to submission
- Review your application package **carefully** and ensure all required documents are included or uploaded electronically
 - Use a “checklist cover sheet” that identifies all items submitted for processing with your application package
 - For more efficient processing, upload separate electronic documents for each document type (e.g., job order, agent agreement) rather than one large file
- Provide **legible** copies of supporting documentation - this is a particular problem with contractor documents *(e.g., FLC registrations, H-2A surety bonds)*

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H-2A Program

General Filing Tips & Issues

- Try to file your job order and application as early as the regulatory timeframes permit
- In H-2B, employer must have a valid prevailing wage determination issued by the NPWC; otherwise application will be rejected
- Make sure the dates of need, number of workers being requested for certification, and worksite locations match between the job order and Form ETA-9142A/B
- If using a template to submit applications and the CO issues a Notice of Deficiency (NOD) impacting your template, employers must amend the template to avoid a continuation of the same NOD for each application

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H-2A Program


General Filing Tips & Issues

- Ensure the size of workforce and period of employment (*i.e.*, *start and end dates of work*) requested for H-2A or H-2B certification represents a bona fide business need
- Requesting a start date of work based on “expected government delays” is not acceptable
- Changes to the period of employment (start or end dates), especially more than 2 weeks, must be accompanied with an explanation and the CO may request supporting documents

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H-2A Agricultural Program


Application Filing Checklist (*non-emergency situation*)

-  Employer will submit the following documents:
- ETA 9142A
 - Appendix A - signed and dated copy of original
 - Copy of Form ETA-790/all attachments submitted to the SWA
 - Itinerary of worksites (*if applicable*)
 - Workers compensation coverage
 - SWA housing inspection report(s) or other documentation demonstrating rental/public accommodation housing meets standards and sufficient to house all workers
 - Agent agreement/documentation demonstrating authority to represent the employer and MSPA registration (*if applicable*)

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H-2A Agricultural Program

Application Filing Checklist (*non-emergency situation*)

-  Additional documentation for H-2A labor contractors:
- Name and location of each fixed-site employer, expected start and end dates of work, and a description of the crops and activities
 - Copy of fully-executed work contracts with each fixed-site employer
 - Copy of MSPA FLC Certificate of Registration, where required, identifying the specific FLC activities
 - Proof of ability to discharge financial obligations by submitting an **original** surety bond document
 - Where the fixed-site employer will provide housing or transportation to workers, proof that . . .
 - Housing complies with applicable standards and has been certified by the SWA
 - Transportation complies with applicable Federal, State, or local laws and regulations

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H-2A Agricultural Program

Filing Tips for H-2A Labor Contractors

- H-2A Labor Contractors must . . .
 - Organize housing and transportation for worker crews well in advance of filing the job order
 - Provide documentation that rental or other public accommodation housing complies with the applicable local, State, or Federal housing standards
 - Prepare for the time it will take to obtain and/or renew Farm Labor Contractor (FLC) documents with Wage and Hour
 - All worksites listed on the ETA Form 9142 and ETA Form 790 must be within the same area of intended employment
 - Applications and job orders containing worksites covering multiple areas of intended employment will not be accepted

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Department of Labor: H-2A Program

Application Processing Procedures

H-2A Agriculture

STEP 4: DOL-OFLC Processing of Application

- Reviews for completeness, obvious errors or inaccuracies, and compliance with program requirements
- Issues Notice of Deficiency or Acceptance

Statutory Timeframe: Within 7 days

- If deficiency is issued, employer has 5 business days to respond *regulatory*)
- If application is accepted, employer positively recruits for U.S. workers
- Employer submits recruitment report and other required documents not provided at the time of filing
- State Agency submits housing inspection report *(if applicable)*

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Department of Labor: H-2A Program

Comparing Positive Recruitment Requirements

H-2A Agriculture

STEP 4: DOL-OFLC Processing of Application *(continued)*

- Places 2 print advertisements in local area
- Contacts employees from prior year
- Conducts out-of-state recruitment (*not more than 3 states*)
- Additional recruitment can be ordered at the discretion of the Certifying Officer
- Positive recruitment must occur no later than 3 days before the start date of work
- Recruitment report can be submitted by the date specified in the Notice of Acceptance

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Department of Labor: H-2A Program

Comparing Issuance of Final Determinations

H-2A Agriculture

STEP 5: Issuance of Final Determination

- Grant labor certification as long as all program requirements are met

Statutory Timeframe: 30 days before start date of work

- Certified Form ETA-9142A issued on “blue security paper”



Employer submits a signed and dated copy of Appendix A to USCIS
(i.e., “wet signature” no longer required)

- Employer must consider U.S. workers until 50 percent of the certified period of work has elapsed

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General Filing Tips & Issues

- **H-2A Amendments to start date of need:** Law allows a “minor” amendment to the start date of need.
- **H-2A recruitment reports:** Prepare them correctly -
 - Employer must “prepare” the recruitment report
 - Must not be on attorney/agent letterhead and not signed by attorney/agent
 - Ensure all required content for recruitment reports are included, particularly the source(s) of recruitment and disposition of each U.S. worker who applied

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H-2A Program

General Filing Tips & Issues

Clearly identifies each positive recruitment step and the date(s) that each was conducted

Provides aggregate summary of recruitment results

Re: H2B: H-400-16209-888211 Recruitment Report

Dear Certifying Officer,

As requested, we are presenting the US workers recruitment activities and results, as follows:

Recruitment Activities:

- **Job Order # 10279470** posted with the Florida Department of Economic Opportunity
- **Newspaper advertisements** published in **The Palm Beach Post** (a newspaper of general circulation in our area) on **August 14, 2016 (Sunday) & August 15, 2016 (Monday)**
- **Notice of Job Opportunity** posted from **August 9, 2016 and until and including August 24, 2016** in 2 conspicuous places accessible to all employees (Location 1 - in the employee break room; Location 2 - in the kitchen). **NOTE:** We are open every day of the week, therefore our **regular business days are Monday through Sunday.**
- We have **no former US workers** eligible for solicitation to return to the job

Recruitment results as of August 31, 2016:

- **4 (four) local job seekers** contacted as a result of application / referral and the recruitment summaries are enclosed

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H-2A Agriculture Program

REMINDER: Issuance of Final Determination

- In the H-2A program, DOL issues a final determination 30 days before the start date of work as long as all program requirements are met
- Common reason(s) for delaying the H-2A final determination is the employer or authorized representative not providing . . .
 - Proof of valid workers' compensation coverage
 - Housing documentation for farmworkers
 - Valid farm labor contractor licenses
 - Valid surety bond for labor contractors
 - Recruitment report
- DOL provides employers with additional time to submit required documents to obtain certification, rather than issue a denial forcing employers to choose between filing an appeal or new application

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H-2A Program

General Filing Tips & Issues

Post-Certification Recruitment Obligations

- Employers must continue to cooperate with the SWA in recruiting for the job opportunity and provide employment to any qualified U.S. worker who applies for the job opportunity
 - H-2A until 50 percent of the certified period of work has elapsed
- Employer must continue to update the initial recruitment report submitted to the CO for certification throughout the entire recruitment period
- Employer must sign and date the final written recruitment report and be prepared to submit it when requested by the CO in the event of an audit examination or other request from the Department

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H-2A Program

General Filing Tips & Issues

- Pay the required H-2A certification fees in full and timely (*within 30 days after the certified is issued*)
- Maintain all documents supporting the certification for a period of 3 years
- Report the termination or separation of workers in a timely manner (*no later than 2 working days*)
- Ensure the workforce and period of employment requested for certification represent bona fide business need (*e.g., claiming expected government delays is not an acceptable justification*)

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Understanding the H-2A Program



Helpful Tips for Responding
to H-2A Audit Examinations

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Department of Labor: H-2A Program

Helpful Tips – Responding to Audit Examination

- Conducted on certified H-2A applications only
- Applications selected within the sole discretion of the Certifying Officer (CO)
- CO will issue a Notice of Audit Examination Letter containing the following:
 - Documentation retained by the employer or other information regarding the certified application
 - A date no more than 30 days in which the CO must receive the documentation
 - Notice that failure to comply with the audit process may result in revocation of the certified application or program debarment from future filings

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Department of Labor: H-2A Program

Helpful Tips – Responding to Audit Examination

- Read the Notice of Audit Examination (NOAE) letter carefully and respond to all items requested
 - NOAE letters change periodically to request documentation where a Request for Supplemental Information was previously necessary
- Where employer did not use the certification, responsive documentation is still required such as . . .
 - Proof of conducting positive recruitment
 - Updated recruitment report
 - Explanation of how full-time work was accomplished without use of H-2A workers

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Department of Labor: H-2A Program

Helpful Tips – Responding to Audit Examination

- Only one extension (up to 14 days) will be granted per audit examination, not per letter issued during the audit process
 - An additional extension may be granted in extenuating circumstances which should be detailed in the extension request
- Submit what you have now, let the Chicago NPC know what is missing and why, and send the remaining documents as soon as practically possible
- Responses that are mere “statements” from the employer affirming program compliance must be supported by objective documentation or evidence
- The reason(s) for “late start” and/or “early end” to work must be explained and documented

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Department of Labor: H-2A Program

Helpful Tips – Responding to Audit Examination

- Submit translations of documentation in English, particularly work contracts outside of the certified job order/application
- Ensure the newspaper advertisements contain all minimum content required by 20 CFR 655.152
- Make sure all of the required information for newspaper advertisements is clearly visible on copies submitted.
 - Dates of publication and name of newspaper must be clearly visible and legible
- Provide evidence that the newspaper advertisements were actually published
 - Submission of an unpaid invoice showing merely the “cost” for the newspaper advertisement is not acceptable

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That's Nice, But How Do I Protect My Farm from the Government?

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Defending the DOJ/ICE Investigation

Practical Guidance to Avoid/Resolve a Worksite Raid



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The Fix is In!

April 30, 2009 Worksite Enforcement Strategy Memo
AILA Doc. No. 09100572

Criminal Prosecution of Employers

- The criminal prosecution of employers is a priority of ICE's worksite enforcement program.
- ICE is targeting employers, owners, corporate managers, supervisors and others in the management structure for criminal prosecution
- ICE should use confidential sources, undercover agents, consensual and non-consensual intercepts and Form I-9 audits.
- ICE should consider the wide variety of criminal offenses that may be present in a worksite case including the mistreatment of workers, trafficking, smuggling, harboring, visa fraud, money laundering and other conduct.
- ICE should obtain indictments, criminal arrest, search warrants and civil violations.

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The Fix is In!

April 30, 2009 Worksite Enforcement Strategy Memo
AILA Doc. No. 09100572

Administrative and Civil Tools

- Form I-9 Audits
- Civil Fines
- Debarment Proceedings
- Outreach



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The Criminal Law

Unlawful Employment of Aliens 8 U.S.C. § 1324a

- Civil Penalties (Hiring, Recruiting, and Referral)
 - \$250-\$2,000 (first violation)
 - \$2,000-\$5,000 (second violation)
 - \$3,000-\$10,000 (third violation+)
- Civil Penalties (Paperwork Violations)
 - \$100-\$1,000 for each individual with whom such violation occurred.
 - Due consideration given to “good faith defense”
- Criminal Penalties (Pattern and Practice Violations)
 - \$3,000 for each unauthorized alien violation
 - 6 months imprisonment

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The Criminal Law

Bringing in and Harboring 8 U.S.C. § 1324 (a)(1)(B)

Penalties (for each alien)

Transporting, shielding, bringing for commercial gain/conspiracy

- 10 years
- Transporting, concealing, encouraging
 - 5 years
- Bodily injury
 - 20 years
- Death
 - Life

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The Anatomy of the Criminal Case

Search/seizure

- Response team
- Knowing your magistrate
- Who is the client
 - Conflicts
 - Resource counsel
- What are your rights
 - Subpoena
 - Move to quash/limit
 - Access to premises
 - Right to remain silent
 - Right to refuse to assist
 - Right to ask questions

**YOU HAVE
THE RIGHT
TO REMAIN
SILENT.**

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Know Your Rights: If ICE Comes to Your Work Place (Employee)

All people living in the United States, including undocumented immigrants, have certain U.S. Constitutional rights. If immigration officers (ICE) come to your work place, they must have a valid search warrant or the consent of your employer to enter non-public areas. If you are undocumented and immigration officers come to your work place, be aware of the following:

- **Do not panic and do not run away.** If you are frightened and feel like you need to leave, you can calmly walk toward the exit.
 - If you are stopped, you may ask if you are free to leave. If the officer says no, do not try to exit the building.
 - If you are questioned, you may tell them you want to remain silent.
- **You have the right to remain silent.** You do not need to speak to the immigration authorities or answer any questions.
 - If you are asked where you were born, or how you entered the United States, you may refuse to answer or remain silent.
 - If you choose to remain silent, say so out loud.
 - If they ask you to stand in a group according to immigration status, you do not have to move, or you can move to an area that is not designated for a particular group.
 - You may show a [know-your-rights card](#) to an officer that explains that you will remain silent and wish to speak to a lawyer.
- You may refuse to show identity documents that say what country you are from.
- Do not show any false documents and do not lie.
- **You have the right to speak to a lawyer.** If you are detained or taken into custody, you have the right to immediately contact a lawyer.
 - Even if you do not have a lawyer, you may tell the immigration officers that you want to speak to one.
 - If you have a lawyer, you have the right to talk to them. If you have a signed [Form G-28](#), which shows you have a lawyer, give it to an officer.
 - If you do not have a lawyer, ask an immigration officer for a list of pro bono lawyers.
 - You also have the right to contact your consulate. The consulate may be able to assist you in locating a lawyer.
 - You can refuse to sign any/all paperwork until you have had the opportunity to speak to a lawyer.
 - If you choose to sign something without speaking to a lawyer, be sure you understand exactly what the document says and means before you sign it.

If you want more information about your rights or to learn if you might be eligible for immigration benefits or relief, speak to a reputable immigration lawyer. Go to www.aialawyer.org to connect with a lawyer in your area.

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Know Your Rights: If ICE Comes to Your Work Place (Public)

All people living in the United States, including undocumented immigrants, have certain U.S. Constitutional rights. If you are undocumented and immigration (ICE) officers stop you on the street or in a public place, know you have the following rights:

- **You have the right to remain silent.** You do not need to speak to the immigration officers or answer any questions.
 - You may ask if you are free to leave. If the officer says no, you may exercise your right to remain silent.
 - If you are asked where you were born or how you entered the United States, you may refuse to answer or remain silent.
 - If you choose to remain silent, say so out loud.
 - You may show a [know-your-rights card](#) to the officer that explains that you will remain silent and wish to speak to an attorney.
 - You may refuse to show identity documents that say what country you are from.
 - Do not show any false documents and do not lie.
- **You may refuse a search.** If you are stopped for questioning but are not arrested, you do not have to consent to a search of yourself or your belongings, but an officer may "pat down" your clothes if he or she suspects you have a weapon.
- **You have the right to speak to a lawyer.** If you are detained or taken into custody, you have the right to immediately contact a lawyer.
 - Even if you do not have a lawyer, you may tell the immigration officers that you want to speak to a lawyer.
 - If you have a lawyer, you have the right to talk to them. If you have a signed DHS [Form G-28](#), which shows you have a lawyer, give it to an officer.
 - If you do not have a lawyer, ask an immigration officer for a list of pro bono lawyers.
 - You also have the right to contact your consulate. The consulate may be able to assist you in locating a lawyer.
 - You can refuse to sign any/all paperwork until you have had the opportunity to speak to a lawyer.
 - If you choose to sign something without speaking to a lawyer, be sure you understand exactly what the document says and means before you sign it.

If you want more information about your rights or to learn if you might be eligible for immigration benefits or relief, speak to a reputable immigration lawyer. Go to www.aialawyer.org to connect with a lawyer in your area.

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Okay, So What About Compliance?

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Form I-9 Employment Eligibility



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Form I-9

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

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Completing Form I-9



Form I-9: Section 1

▶START HERE. 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 documents they will accept from an employee. The refusal to hire an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Attestation (Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)

| | | | | | | |
|----------------------------------|-----------------------------|-------------------------|--------------|------------------|---------------------------|----------|
| Last Name (Family Name) | | First Name (Given Name) | | Middle Initial | Other Names Used (if any) | |
| Address (Street Number and Name) | | Apt. Number | City or Town | | State | Zip Code |
| Date of Birth (mm/dd/yyyy) | U.S. Social Security Number | Email Address | | Telephone Number | | |

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 Registration Number/USCIS Number): _____
- An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) _____. Some aliens may write "N/A" in this field. (See instructions)

For aliens authorized to work, provide your Alien Registration Number/USCIS Number OR Form I-94 Admission Number:

1. Alien Registration Number/USCIS Number: _____

OR

2. Form I-94 Admission Number: _____

If you obtained your admission number from CBP in connection with your arrival in the United States, include the following:

Foreign Passport Number: _____

Country of Issuance: _____

Some aliens may write "N/A" on the Foreign Passport Number and Country of Issuance fields. (See instructions)

Signature of Employee: _____ Date (mm/dd/yyyy): _____

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.

| | | |
|--|--|--------------------------|
| Signature of Preparer or Translator: _____ | | Date (mm/dd/yyyy): _____ |
| Last Name (Family Name) | | First Name (Given Name) |
| Address (Street Number and Name) | | City or Town |
| | | State |
| | | Zip Code |

PHILIPS DUNBAR Employer Completes Next Page

Form I-9 (05/08/13) N Page 7 of 9

Form I-9: Section 2

Section 2. Employer or Authorized Representative Review and Verification
(Employer or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "List of Acceptable Documents" on the next page of this form. For each document you review, record the following information: document title, issuing authority, document number, and expiration date, if any.)

Employee Last Name, First Name and Middle Initial from Section 1: _____

| Identify and Employment Authorization | OR | List B Identity | AND | List C Employment Authorization |
|---------------------------------------|----|--------------------------------------|-----|--------------------------------------|
| Document Title | | Document Title | | Document Title |
| Issuing Authority | | Issuing Authority | | Issuing Authority |
| Document Number | | Document Number | | Document Number |
| Expiration Date (if any)(mm/dd/yyyy) | | Expiration Date (if any)(mm/dd/yyyy) | | Expiration Date (if any)(mm/dd/yyyy) |
| Document Title | | | | |
| Issuing Authority | | | | |
| Document Number | | | | |
| Expiration Date (if any)(mm/dd/yyyy) | | | | |
| Document Title | | | | |
| Issuing Authority | | | | |
| Document Number | | | | |
| Expiration Date (if any)(mm/dd/yyyy) | | | | |

3-D Barcode
Do Not Write in This Space

Certification
 I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.
 The employee's first day of employment (mm/dd/yyyy): _____ (See instructions for exceptions.)

Signature of Employer or Authorized Representative: _____ Date (mm/dd/yyyy): _____ Title of Employer or Authorized Representative: _____

Last Name (Family Name): _____ First Name (Given Name): _____ Employee's Business or Organization Name: _____

Employee's Business or Organization Address (Street Number and Name): _____ City or Town: _____ State: _____ Zip Code: _____

Section 3. Reverification and Rehire (To be completed and signed by employer or authorized representative.)

A. New Hire (If applicable) Last Name (Family Name): _____ First Name (Given Name): _____ Middle Initial: _____ Date of Hire (If applicable) (mm/dd/yyyy): _____

C. If employee's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below.

Document Title: _____ Document Number: _____ Expiration Date (if any)(mm/dd/yyyy): _____

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 (mm/dd/yyyy): _____ First Name of Employer or Authorized Representative: _____

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Section 1: Employee Information and Verification

Section 1. Employee Information and Attestation (Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)

| | | | | | | | |
|----------------------------------|-----------------------------|-------------------------|-------------|----------------|---------------------------|-------|----------|
| Last Name (Family Name) | | First Name (Given Name) | | Middle Initial | Other Names Used (if any) | | |
| Address (Street Number and Name) | | | Apt. Number | City or Town | | State | Zip Code |
| Date of Birth (mm/dd/yyyy) | U.S. Social Security Number | E-mail Address | | | Telephone Number | | |

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

Section 1: Important Area – Employee Attestation

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 Registration Number/USCIS Number): _____

An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) _____. Some aliens may write "N/A" in this field. (See instructions)

For aliens authorized to work, provide your Alien Registration Number/USCIS Number **OR** Form I-94 Admission Number:

1. Alien Registration Number/USCIS Number: _____

OR

2. Form I-94 Admission Number: _____

If you obtained your admission number from CBP in connection with your arrival in the United States, include the following:

Foreign Passport Number: _____

Country of Issuance: _____

Some aliens may write "N/A" on the Foreign Passport Number and Country of Issuance fields. (See instructions)

Signature of Employee: _____ Date (mm/dd/yyyy): _____

3-D Barcode
Do Not Write in This Space

- 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 2: Employer Certification of Document Review

Section 2: Employer or Authorized Representative Review and Verification

(Employers or their authorized representatives must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "List of Acceptable Documents" on the next page of this form. For each document you review, record the following information: document title, issuing authority, document number, and expiration date, if any.)

Employee Last Name, First Name and Middle Initial from Section 1: _____

| List A Identify and Employment Authorization | OR List B Identify | AND List C Employment Authorization |
|---|--|---|
| Document Title: _____ | Document Title: _____ | Document Title: _____ |
| Issuing Authority: _____ | Issuing Authority: _____ | Issuing Authority: _____ |
| Document Number: _____ | Document Number: _____ | Document Number: _____ |
| Expiration Date (if any)(mm/dd/yyyy): _____ | Expiration Date (if any)(mm/dd/yyyy): _____ | Expiration Date (if any)(mm/dd/yyyy): _____ |
| Document Title: _____ | <div style="border: 1px solid black; padding: 10px; width: fit-content; margin: 0 auto;"> <p>3-D Barcode Do Not Write in This Space</p> </div> | Document Title: _____ |
| Issuing Authority: _____ | | Issuing Authority: _____ |
| Document Number: _____ | | Document Number: _____ |
| Expiration Date (if any)(mm/dd/yyyy): _____ | | Expiration Date (if any)(mm/dd/yyyy): _____ |
| Document Title: _____ | | Document Title: _____ |
| Issuing Authority: _____ | Issuing Authority: _____ | Issuing Authority: _____ |
| Document Number: _____ | Document Number: _____ | Document Number: _____ |
| Expiration Date (if any)(mm/dd/yyyy): _____ | Expiration Date (if any)(mm/dd/yyyy): _____ | Expiration Date (if any)(mm/dd/yyyy): _____ |

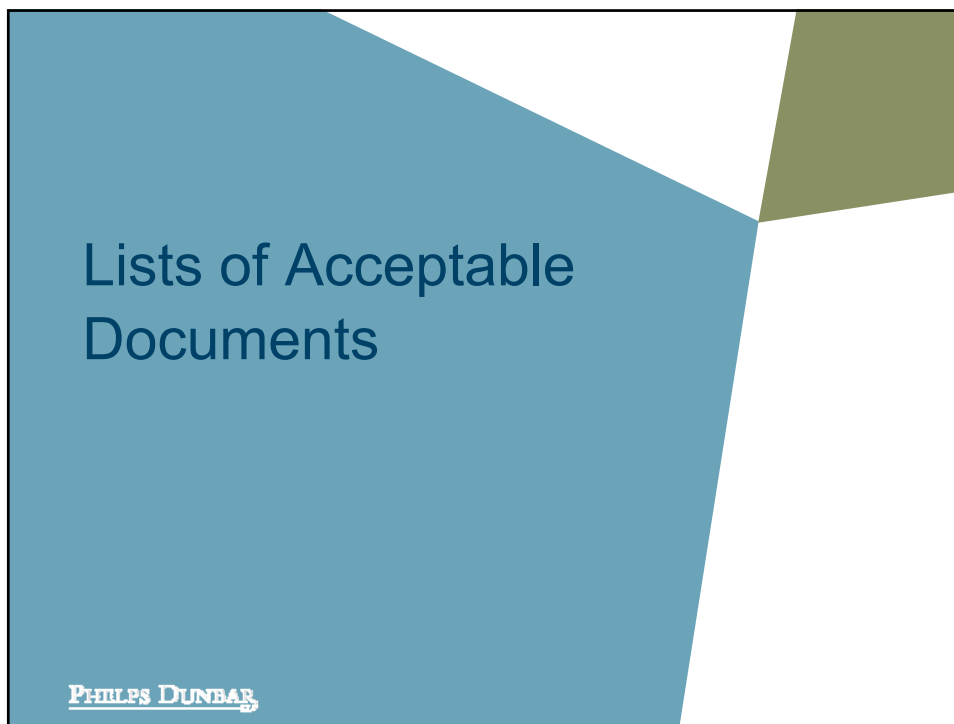
Certification

I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy) _____ (See instructions for exemptions.)

| | | | | |
|--|--|-------------------------|--|----------|
| Signature of Employer or Authorized Representative | | Date (mm/dd/yyyy) | Title of Employer or Authorized Representative | |
| Last Name (Family Name) | | First Name (Given Name) | Employer's Business or Organization Name | |
| Employer's Business or Organization Address (Street Number and Name) | | | City or Town | State |
| | | | | Zip Code |





Lists of Acceptable Documents

LISTS OF ACCEPTABLE DOCUMENTS
All documents must be **UNEXPIRED**

Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.

| LIST A Documents that Establish Both Identity and Employment Authorization | LIST B Documents that Establish Identity | 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, state 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, state of birth, gender, height, eye color, and address. | 2. Certification of Birth Abroad issued by the Department of State (Form FS-545) |
| 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. Certification of Report of Birth issued by the Department of State (Form OS-1200) |
| 4. Employment Authorization Document that contains a photograph (Form I-796) | 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 |
| 5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status: 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 alien's nonimmigrant status 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. Native American tribal document |
| 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 | 6. Military dependent's ID card | 6. U.S. Citizen ID Card (Form I-197) |
| | 7. U.S. Coast Guard Merchant Mariner Card | 7. Identification Card for Use of Resident Citizen in the United States (Form I-726) |
| | 8. Native American tribal document | 8. Employment authorization document issued by the Department of Homeland Security |
| | 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 | |

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Section 2: Employer Certification of Document Review

- 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**.

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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.*

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Section 2: Receipt Rule

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

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Section 3: Reverification

| | | |
|--|----------------------------|--|
| Section 3. Reverification and Rehires <i>(To be completed and signed by employer or authorized representative.)</i> | | |
| A. New Name <i>(if applicable)</i> Last Name <i>(Family Name)</i> First Name <i>(Given Name)</i> Middle Initial | | B. Date of Rehire <i>(if applicable)</i> <i>(mm/dd/yyyy)</i> : |
| C. If employee's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below. | | |
| Document Title: | Document Number: | Expiration Date <i>(if any)</i> <i>(mm/dd/yyyy)</i> : |
| 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>(mm/dd/yyyy)</i> : | Print Name of Employer or Authorized Representative: |

- You **MUST** reverify an employee on Section 3 on a new Form I-9 if his or her temporary employment authorization has expired.
- Rehire the EMPLOYEE within 3 years of original hire date
- Update the biographic information of an employee

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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 do 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 stating the reason for your action.

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Retention

Forms I-9 must be stored for:

- **3 years after** the date you **hire** an employee *or*
- **1 year after** the date employment **terminates**, *whichever is later.*

Example:

- John Smith 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

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Questions

