

# I-9 Compliance & E-Verify Regulations Under Trump Administration

Wednesday, June 10th

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## Today's presenters



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VP I-9 Operations – **OutSolve**



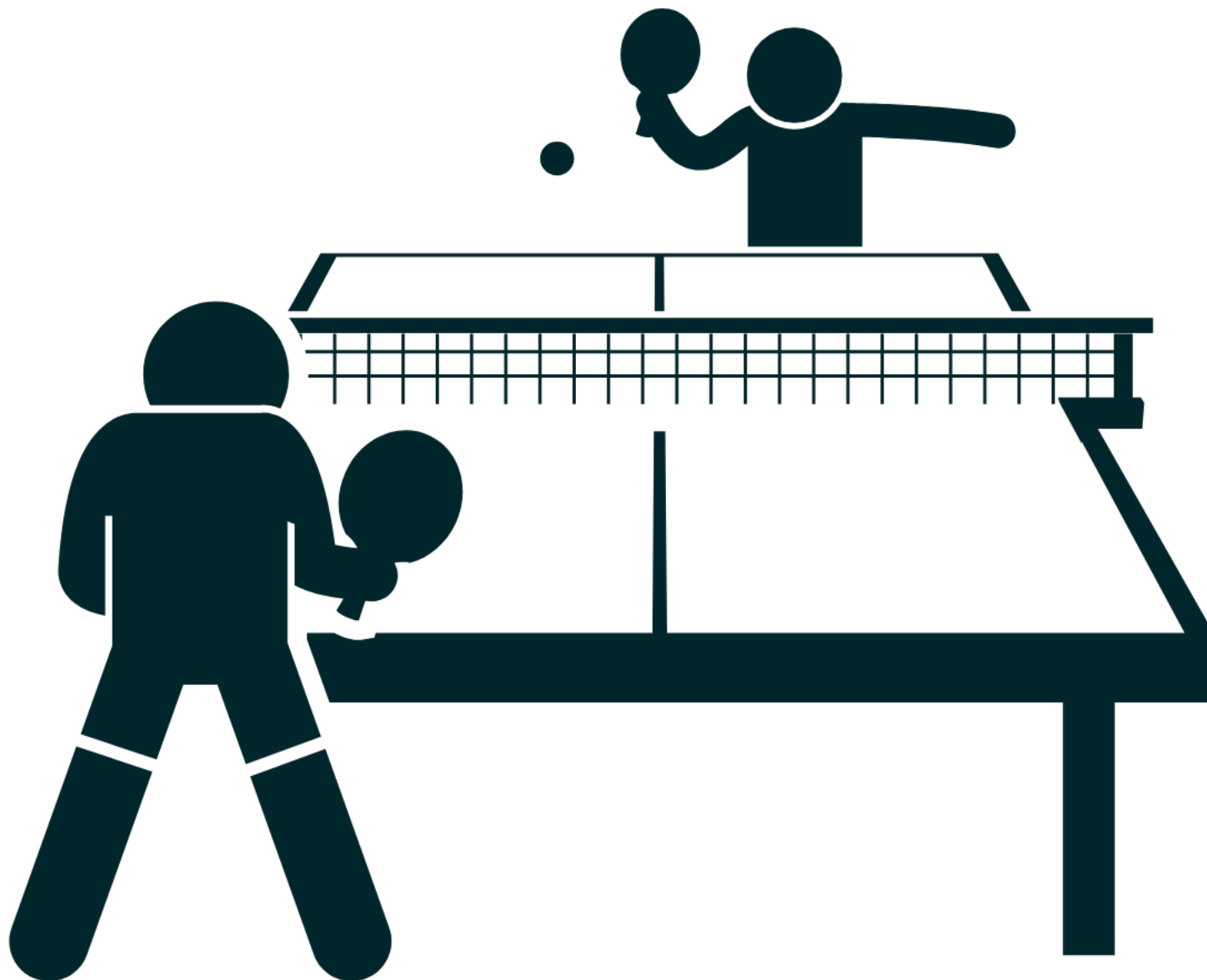
**Alissa Horvitz**

Member Attorney – **Roffman Horvitz**

# Agenda

- What to Expect From the Trump Administration
- Raids vs. ICE Audits
- Employer Responsibilities & Deadlines
- Civil and Criminal Violations, and Recent Penalties for Non-Compliance
- Implementing a Follow-Up Strategy for Temporary Work Authorizations
- Determining Internal Practices on Retaining I-9 Forms
- Conducting a Self-Audit and Correcting Mistakes

The image displays a digital representation of the USCIS Form I-9, 'Employment Eligibility Verification'. On the left, a laptop screen shows a stylized version of the form with a large magnifying glass icon over the 'I-9' label. To the right, a printed version of the form is shown. The printed form includes the USCIS logo, the title 'Employment Eligibility Verification', and the form number 'Form I-9'. It contains several sections: 'Section 1: Employee Information and Attestation' with fields for name, address, date of birth, and social security number; a section for the employer to attest to the employee's status; and a section for the preparer to fill out. The form is set against a background of light blue and purple wavy lines.





## What to Expect From the Trump Administration

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- Renewed focus on worksite immigration enforcement
- Increased use of ICE audits (Notices of Inspection)
- Higher civil penalties for I-9 and verification errors
- Less tolerance for repeat or technical non-compliance
- Greater emphasis on employer accountability and documentation
- Focus by industry



# TRUMP 2.0: Reclassified Form I-9 Violations

Technical Errors Now Classified as Substantive Violations Subject to Immediate Fines

***Based on a comparison of the March 2026 Fact Sheet against the Virtue Memo and prior ICE guidance, the following errors are now classified as substantive violations subject to fines.***

## SECTION 1 — EMPLOYEE FIELDS

- Missing employee date of birth
- Missing USCIS/alien number (when applicable)
- Missing date next to employee signature
- Missing expiration date in Section 1, Box 4

## GENERAL

- Spanish-language Form I-9 used outside Puerto Rico
- Incomplete preparer/translator data in Supplement A
- Electronic I-9 audit trail, e-signature, or security documentation deficiencies

## SECTION 2 — EMPLOYER CERTIFICATION

- Missing name/title of employer representative
- Incomplete List A, B, or C data in Section 2 (doc title, number, issuing authority, or expiration) — even where document copies were retained
- Missing first day of employment in the Certification
- Failure to check alternative procedure box / not enrolled in E-Verify when using remote verification

## Poll Question

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How prepared do you feel your organization is for increased worksite enforcement under the Trump Administration?

- A. Very prepared
- B. Somewhat prepared
- C. Not very prepared
- D. Not prepared at all

# RAIDS VS. ICE AUDITS



## ICE Raids vs. ICE Audits

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- ICE Raid
  - DHS arrives at the employer's premises without warning
  - Agents will surround the worksite and may have aerial support
  - Agents enter the business with a criminal search warrant, which will describe where agents are going to search and what they may seize
    - Payroll; I-9s; bank records; Social Security Administration documents; IRS Forms 940 and 940 employment tax documents; and/or other financial and employee records
  - ICE may detain and arrest unauthorized workers
  - The employer should make an inventory of seized property and arrested employees

## ICE Raids vs. ICE Audits

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- ICE Audit (slide 1 of 3)
  - ICE serves a Notice of Inspection (NOI) on the employer and attaches a list of requested items
    - Normally, two agents serve the NOI and/or subpoena on the employer and demand production of the information within three days
    - The agents may ask the employer if it wishes to waive the three days (not recommended)
  - The employer should contact counsel urgently
  - Similar records as in the raid will be requested (I-9s, payroll, list of current employees and list of former employees for the past one-to-three years; SSA documents; IRS forms 940 and 940 employment tax documents; business licenses, etc.)

## ICE Raids vs. ICE Audits

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- ICE Audit (slide 2 of 3)
  - ICE agents have a right to receive and inspect original I-9 Forms
  - Employer should copy all paper documents it turns over to ICE and create an index or inventory of all electronic records it submits to ICE
  - The ICE agent is inspecting the forms to ensure they comply with the law
  - The ICE agent is principally looking for incomplete or missing forms, or employment of unauthorized workers
  - There also may be technical violations, which the employer has 10 days to remedy
  - ICE Fines (next slide)

## ICE Raids vs. ICE Audits

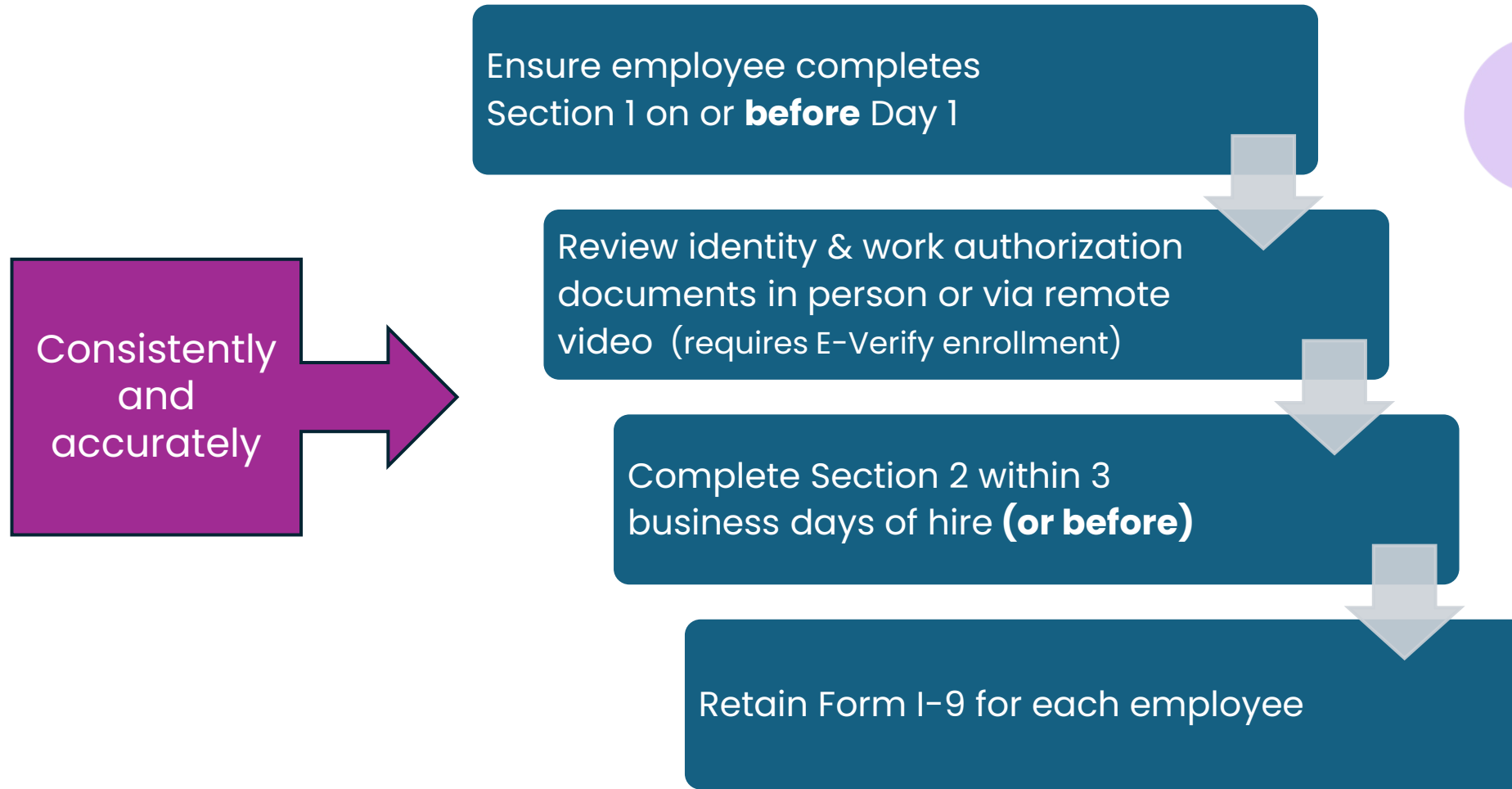
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- ICE Audit (slide 3 of 3)
  - ICE Fines can be steep (2025–2026 Penalty Structure)
    - Substantive/Uncorrected Paperwork violations: \$288–\$2861 per form
    - Knowingly Hiring/Continuing to Employ an Unauthorized Worker
      - First Offense: \$716 – \$5,724 per worker
      - Subsequent Offenses: Up to \$28,619 per worker
  - ICE determines the final fine based on five factors:
    - Business size
    - Good faith effort to comply
    - Seriousness of the violation
    - Whether unauthorized workers were involved
    - History of prior violations
  - ICE Audit outcomes: <https://www.ice.gov/factsheets/i9-inspection>

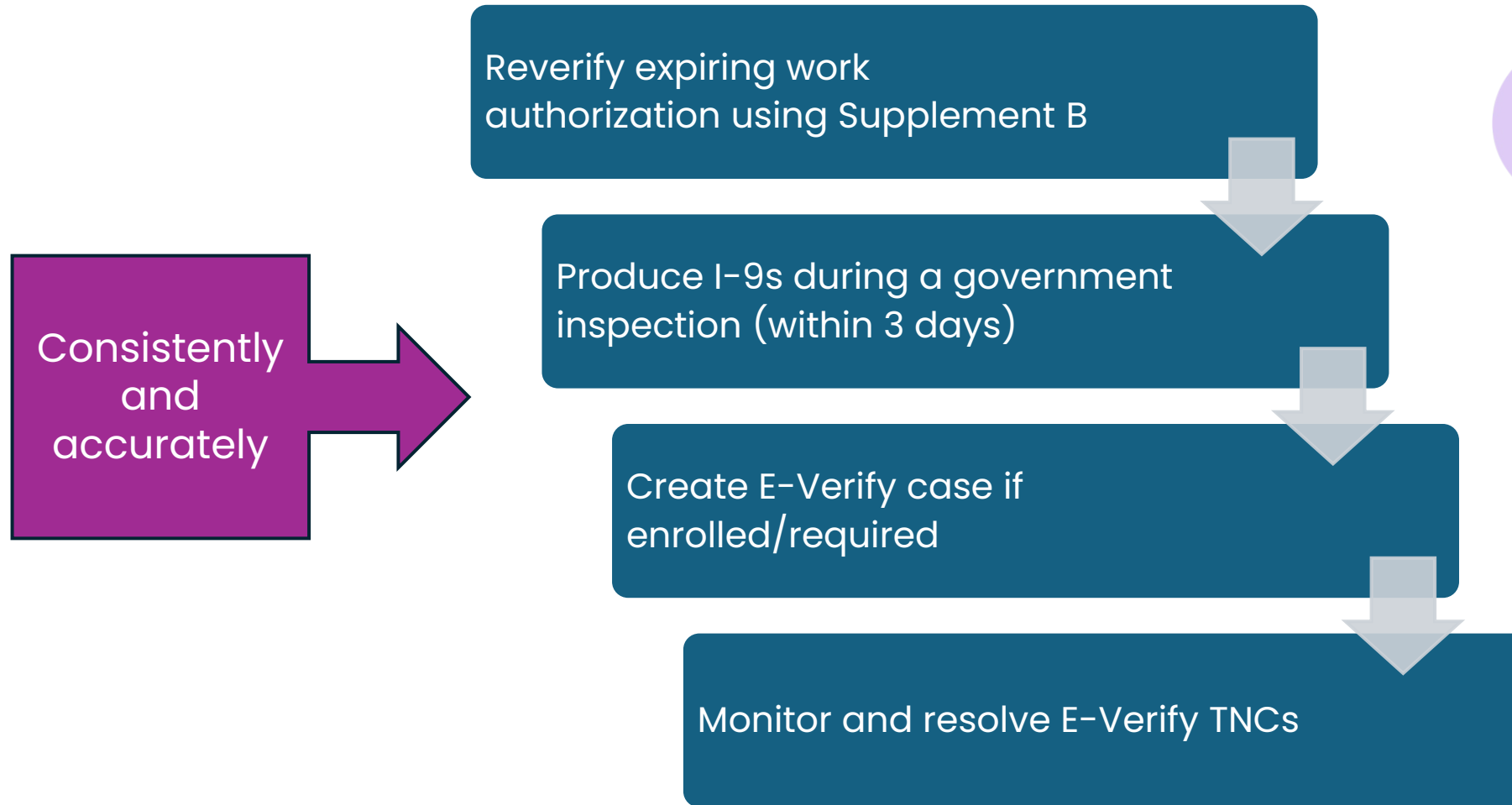
# EMPLOYER RESPONSIBILITIES & DEADLINES



# Employer Responsibilities & Deadlines



## Employers MUST



Employers **MUST NOT**

| Prescreen                                                 | Section 1                                                                                                                                                               | Documents                                                                                                                                                                 | Discriminate                                                                                        | Corrections                                                                                      |
|-----------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| Do not complete Form I-9 prior to an offer being accepted | <ul style="list-style-type: none"><li>• Never fill out Section 1 for the employee</li><li>• Never influence how the employee attests to citizenship or status</li></ul> | <ul style="list-style-type: none"><li>• Don't specify I-9 documentation an employee must present</li><li>• Or don't reject reasonably genuine looking documents</li></ul> | Never discriminate against individuals based on national origin, citizenship, or immigration status | <ul style="list-style-type: none"><li>• Never back date</li><li>• Never conceal errors</li></ul> |



Employers participating in E-Verify **MUST NOT**

| Prescreen                                                    | Adverse Action                                                                           | Discriminate                                                                                                                                       | Enrollment                                                                                                     | Share Credentials                             |
|--------------------------------------------------------------|------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------|-----------------------------------------------|
| Never use E-Verify to pre-screen an applicant for employment | Employers may not take adverse action against an employee while a TNC is being resolved. | <b>Never</b> use E-Verify to discriminate against any job applicant or employee based on their national origin, citizenship, or immigration status | Do not use E-Verify for employees hired before enrolling in E-Verify<br>Except for certain federal contractors | Never share any E-Verify user ID or passwords |

# **CIVIL AND CRIMINAL VIOLATIONS, AND RECENT PENALTIES FOR NON-COMPLIANCE**



## Civil and Criminal Violations, Penalties

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- Civil Violations
  - Knowingly hiring, or knowingly recruiting or referring for a fee, an unauthorized alien for employment in the United States or knowingly continuing to employ an unauthorized alien in the United States
  - Failing to comply with Form I-9 employment verification requirements
  - Committing or participating in document fraud for satisfying a requirement or benefit of the employment verification process or the INA, or committing document abuse
  - Unlawfully discriminating against an employment-authorized individual
  - Failing to notify DHS of a Final Nonconfirmation (FNC) of an employee's employment eligibility
  - Requiring an individual to post a bond or security or to pay an amount or otherwise to provide financial guarantee or indemnity against any potential liability arising under the employment verification requirements
- Criminal Violation: engaging in a pattern or practice of hiring, recruiting, or referring for a fee unauthorized aliens

## Civil and Criminal Violations, Penalties

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- Examples of Penalties Arising Out of I-9 Audits
  - CCS Denver, Inc. – Fined \$6,186,171 after a 100% substantive violation rate and evidence of knowingly hiring and employing at least 87 unauthorized workers.
  - PBC Commercial Cleaning Systems, Inc. – Fined \$1,599,510 for a 74% violation rate and a pattern of knowingly employing at least 12 unauthorized workers.
  - Green Management Denver – Fined \$270,195 after a 100% violation rate and identification of 44 unauthorized employees.
- From the DOJ, Office of the Chief Administrative Hearing Officer
  - Granuband Macon, LLC, Section 1 and 2 of the I-9, 31 individuals, fine \$80,658.35

# **IMPLEMENTING A FOLLOW-UP FOR STRATEGY TEMPORARY WORK AUTHORIZATIONS**



## Follow-Up for Temporary Work Authorizations: Reverification

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- Purpose of reverification
- Who needs reverifying and the timing of reverifying
  - Maintain a secure, updated spreadsheet that includes information on I-94, I-797, and EAD expiration dates
  - Use the E-Verify Status Change report to identify EAD extension dates
- How to reverify
- Avoid common mistakes (cite to OutSolve blog: Form I-9 Reverification: What Is It and Who Needs It For Compliance)

**TPS EAD Category A12 or C19**

| Country     | Termination                                                                                                                                                                                                                                             |
|-------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| El Salvador | September 9, 2026 <ul style="list-style-type: none"><li>• If extended via Federal Register notice the work eligibility terminates March 9, 2026</li><li>• If extended via I-765 EAD Renewal the work eligibility terminates September 9, 2026</li></ul> |
| Sudan       | October 19, 2026                                                                                                                                                                                                                                        |
| Ukraine     | October 19, 2026                                                                                                                                                                                                                                        |
| Venezuela   | October 2, 2026                                                                                                                                                                                                                                         |
| Lebanon     | <ul style="list-style-type: none"><li>• As of 5/28/26 automatic <a href="#">extension</a> until November 27, 2026</li><li>• Applies to EADS with expiration of 5/27/2026</li></ul>                                                                      |

Court-ordered extensions for Burma (Myanmar), Ethiopia, Haiti, Somalia, South Sudan, Syria, and Yemen. For more information, go to [www.uscis.gov/humanitarian/temporary-protected-status](https://www.uscis.gov/humanitarian/temporary-protected-status)

**Asylees & Refugees**

Refugee or asylum status may be granted to aliens who have been persecuted or have a well-founded fear of future persecution on account of their race, religion, nationality, membership in a particular social group, and/or political opinion.

## Poll Question

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How does your organization currently track employees with expiring temporary work authorizations?

- A. Automated system with alerts
- B. Manual tracking (spreadsheets/calendar reminders)
- C. We do not have a formal process

# **DETERMINING INTERNAL PRACTICES ON RETAINING I-9 FORMS**



# Determining Internal Practices on Retaining Form I-9s

**Learning Objective:** Apply I-9 retention rules correctly & determine when to retain vs. purge Form I-9s to ensure compliance.

## Why I-9 Retention Matters

- ✓ Federal Compliance Requirement
- ✓ Risk of Fines & Penalties
- ✓ Inability to Produce I-9s on Demand

Retention decisions *must be*  
***Intentional & Consistent***



## Internal Best Practices

- ✓ Keep I-9s Separate from Personnel Files
- ✓ Use Standardized Retention Logic
- ✓ Document Retention & Purge Procedures

## Retain or Purge? Ask These Questions:

**1.** Has the employee terminated?

**No:** Retain the I-9

**Yes:** Go to Question 2

**2.** Has the retention period expired?

**No:** Retain the I-9

**Yes:** Purge the I-9

## Common Mistakes to Avoid:

- ✗ Indefinite Retention "Just in Case"
- ✗ Purging I-9s Immediately After Termination
- ✗ Retention Based on Citizenship or Visa Type
- ✗ Inconsistent Handling of Paper vs. Electronic I-9s

## Audit-Ready Strategy:

- ✓ Be Prepared for ICE Inspections
- ✓ Purge Eligible I-9s Timely
- ✓ Ensure Consistent Compliance



## Key Takeaway:

**I-9 Retention is a Compliance Obligation, Not a Preference.**  
Follow federal rules with clear, consistent practices.

# **CONDUCTING A SELF AUDIT AND CORRECTING MISTAKES**



# CONDUCTING A SELF AUDIT AND CORRECTING MISTAKES



Jun 1

## Prepare and Define

- Define scope of the audit & neutrally select sample
- Document the intent of the audit
- Gather current roster and terminated staff



Jun 15

## Gather Forms

- Collect Form I-9 and Supporting Documents per audit scope

*Note: You only have 3 days to gather and submit when inspected by HSI*



Jun 17

## Review Each Form

- Verify timeliness
- Check for completeness
- Identify if any forms are missing
- Review for accuracy
- Document errors found



Aug 1

## Create a Plan to Correct

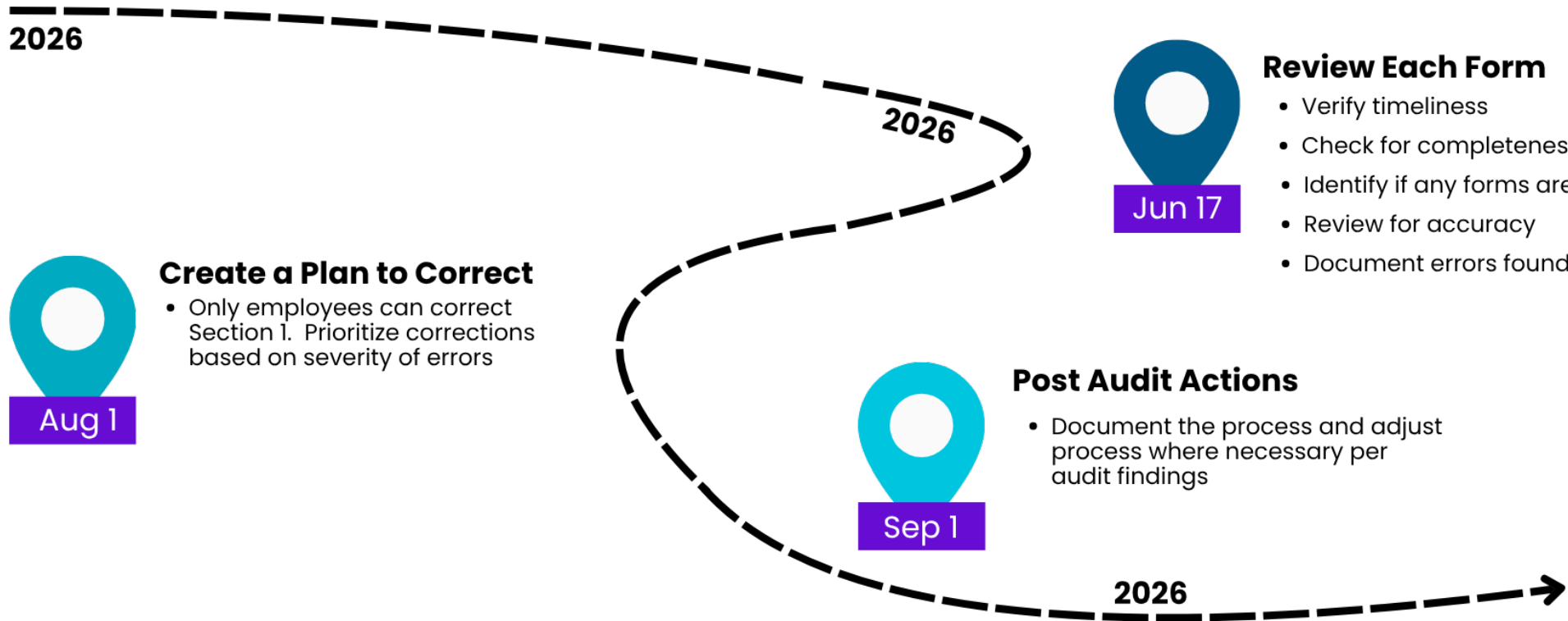
- Only employees can correct Section I. Prioritize corrections based on severity of errors



Sep 1

## Post Audit Actions

- Document the process and adjust process where necessary per audit findings



# Common Form I-9 Errors | Paper I-9s vs. Electronic I-9 Systems

| Error Category              | Paper I-9s                                                               | Electronic I-9 Systems                                              |
|-----------------------------|--------------------------------------------------------------------------|---------------------------------------------------------------------|
| Missing or Late Forms       | Forms not completed or completed late; missing I-9s found during audits. | Forms started but never finalized; incomplete workflows.            |
| Section 1 Errors            | Missing employee signature/date; incomplete fields.                      | Incorrect data entered; employee not prompted to correct Section 1. |
| Section 2 Timing            | Section 2 completed after the 3-business-day deadline.                   | System allows late completion or lacks timing enforcement.          |
| Document Errors             | Expired documents accepted; over-documentation.                          | Invalid document combinations allowed by system logic.              |
| Illegibility / Data Quality | Unreadable handwriting; damaged or incomplete forms.                     | Blurry or incomplete document uploads accepted.                     |
| Improper Corrections        | White-out, erasures, backdating; no initials/dates.                      | Edits overwrite original data; no compliant correction trail.       |
| Reverification Failures     | Missed reverification deadlines due to no tracking.                      | Alerts or workflows not triggered.                                  |
| Audit Trail Issues          | No record of who changed what and when.                                  | Missing or incomplete audit trail.                                  |
| Retention & Storage         | Forms lost, purged too early, or stored improperly.                      | System does not meet DHS storage requirements.                      |

# Questions?

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## Upcoming OutSolve Sessions

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### **JUNE 24 | 2pm ET**

Compliance Checkup: Mid-Year Review HR Cannot Skip

### **AUGUST 26 | 2pm ET**

Building a Defensible Pay Strategy

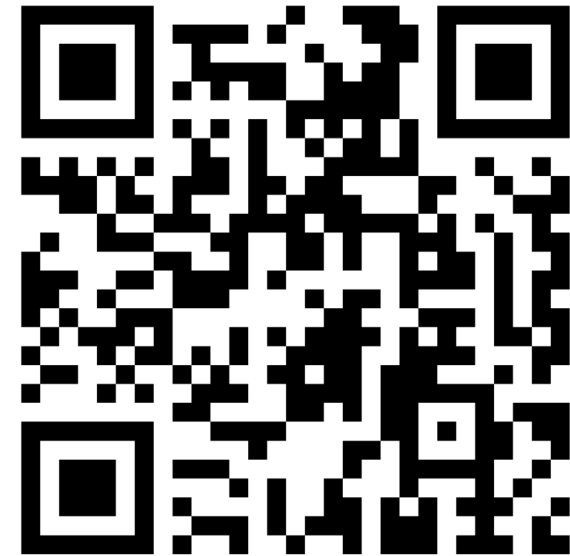
### **SEPTEMBER 16 | 2pm ET**

I-9 Compliance: Spotting and Correcting Substantive Errors Before They Cost You

### **OCTOBER 28 | 2pm ET**

HR Compliance Planning for 2027:  
What's Coming & How to Get Ahead

**Save Your Spot:**



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