



Immigration and Your Business: Know Your Rights



*Understanding Rights & Protections for Small Business Owners
and Tenants*

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Housekeeping

While waiting for others to come in, here are some rules and reminders to keep in mind



- Be respectful and kind
- Feel free to type your questions in the Q&A box
- Questions will be answered at the Q&A after the presentation



DISCLAIMER



This presentation is for **informational** purposes only and does not constitute legal advice.

For specific legal concerns or questions, please consult a **qualified attorney** or legal professional to ensure compliance with current laws and regulations.

The City of Albuquerque and its partners are not responsible for any actions taken based on the information in this presentation.

Partner: Office of Immigrant and Refugee Affairs (OIRA)



What is our mission?

The mission of the Office of Immigrant and Refugee Affairs is to improve the lives of all immigrants and resettled refugees who are living in Albuquerque.

When did we start?

The Office was established in 2016, with support from the W.K. Kellogg Foundation, to coordinate efforts to better serve immigrant and refugee residents.

What do we do?

- The OIRA Office facilitate the successful integration of immigrants and refugees into Albuquerque's civic, economic, and cultural life.
- Celebrate diverse cultures of immigrants and refugees and their contributions to Albuquerque.
- Advocate on behalf of immigrants and refugees and promote a citywide culture that understands and values the benefits all members of our society receive when immigrant and refugees are successfully integrated.

Overview of The CABQ Small Business Office



About the Office

- A division of the Economic Development Dept.
- Established in 2019

What We Do

- Provide support for small businesses in Albuquerque
- Connect small business owners to the right people and resources
- Provide assistance in navigating City process such as permitting and licensing
- Can assist small business in understanding the City's procurement process

Contact

- Cabq.gov/sbo



Overview of Immigration Policies and Changes



WHAT WILL HAPPEN TO IMMIGRANTS UNDER TRUMP'S SECOND TERM?

The 47th president of the United States has begun his second term, bringing new and **stricter immigration policies** that will impact millions.

- Brief Summary of New Administration's Immigration Policies
 - Termination of Temporary Protected Status (TPS)
 - Revocation of Humanitarian Parole Programs
 - Mass Deportation Initiatives:
 - Executive Orders on Border Security
- Potential impacts on businesses and tenants
- Why It Matters for Small Business Owners & Tenants
 - Workforce availability & labor costs
 - Consumer base and market demand
 - Entrepreneurship and small business growth
 - Real Estate market & Commercial Leases
 - Industry-specific impacts
 - Regional economic growth & competitiveness

I-9 Overview



What Employers need to Know

What is an I-9 Audit?

- Immigration and Customs Enforcement (ICE) investigates a workplace's compliance with 8 U.S.C. 1324a
- Violations can result in employer fines and termination of workers with paperwork discrepancies,
- Less commonly, can result in ICE detaining workers or put them into deportation proceedings.



Employment Eligibility Verification
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No. 1615-0047
Expires 08/31/2019

▶ START HERE: Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) an employee may present to establish employment authorization and identity. The refusal to hire or continue to employ 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 Last 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	Employee's E-mail Address		Employee's 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 boxes):

1. A citizen of the United States

2. A noncitizen national of the United States (See instructions)

3. A lawful permanent resident (Alien Registration Number/USCIS Number): _____

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

Aliens authorized to work must provide only one of the following document numbers to complete Form I-9:
An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.

1. Alien Registration Number/USCIS Number: _____
OR
2. Form I-94 Admission Number: _____
OR
3. Foreign Passport Number: _____
Country of Issuance: _____

Signature of Employee _____ Today's Date (mm/dd/yyyy) _____

Preparer and/or Translator Certification (check one):

I did not use a preparer or translator. A preparer(s) and/or translator(s) assisted the employee in completing Section 1.
(Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)

I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.

Signature of Preparer or Translator _____ Today's Date (mm/dd/yyyy) _____

Last Name (Family Name)		First Name (Given Name)		
Address (Street Number and Name)		City or Town	State	ZIP Code



8 U.S.C. 1324a & 1324b

- Passed in 1986 as part of Immigration Reform and Control Act (IRCA)
- Bipartisan compromise: legalizes millions of undocumented immigrants but makes it illegal to hire “unauthorized” workers for the first time
- Includes anti-discrimination provisions

8 U.S.C 1324a

- Unlawful to “knowingly” hire or continue to employ an employee knowing they lack work authorization
 - Fines range from \$200 to \$10,000 for each violation (high end is for repeat violations)
 - “Pattern or practice” of violations is a misdemeanor and can lead to \$3000 fine for each worker or up to six months in jail
- Unlawful to hire someone without verifying their authorization to work by completing Form I-9
 - Fines range from \$100 to \$1000 for each violation



8 U.S.C 1324a

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- Unlawful to hire someone without verifying their authorization to work by completing Form I-9
- Fines range from \$100 to \$1000 for each violation
- “Safe harbor”: Compliance with I-9 requirements is an “affirmative defense” to allegation of knowingly hiring undocumented worker
- Employer must:
 - complete Form I-9 within 3 days of hire
 - examine documents used to establish work eligibility in person (unless employer uses E-verify)
 - certify that documents reasonably appear to be genuine
 - maintain copies of the I-9 but . . .
 - *no requirement to maintain copies of documents presented by the employee to prove work authorization; employer must have same policy re: maintaining or not maintaining for ALL employees*



8 U.S.C 1324b




- Unlawful to discriminate against U.S. citizens or work authorized non-citizens based on national origin
- Unlawful to discriminate against US citizens, LPRs, refugees or asylees based on citizenship status
- Civil penalties of \$250-\$10,000 for each worker discriminated against

Process of an I-9 Audit

- Starts with a Notice of Inspection
- Notice usually gives employers three business days to produce all I-9 records, along with supporting documents such as payroll, a list of active and terminated employees, articles of incorporation, and business licenses.
- Employer can request more time to respond
- Employers have the right to hire legal counsel to help them navigate the process

Sample Notice of Inspection

Homeland Security Investigations
U.S. Department of Homeland Security
1100 2nd Avenue, Suite 2100
Seattle, Washington 98104

 U.S. Immigration
and Customs
Enforcement

NOTICE OF INSPECTION
August 23, 2013

Dear Sir/Madam:

Section 274A of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, requires employers to hire only United States citizens and aliens who are authorized to work in the United States. Employers must verify the employment eligibility of persons hired after November 6, 1986 using the Employment Eligibility Verification Form I-9.

Federal regulations require the provision of three days notice prior to conducting a review of an employer's Forms I-9. This letter serves as advance notice that U.S. Immigration and Customs Enforcement Homeland Security Investigations (HSI) has scheduled a review of your forms for August 29, 2013. However, you may waive the three-day period, should you wish to do so, by annotating and signing page two of this letter and advising this office of your decision.

During the review, Auditor, will discuss the requirements of the law with you and inspect your Forms I-9. In addition to the presentation of your Forms I-9, you will need to present any documents copied as part of the employment eligibility verification process. If your business utilizes software for the electronic generation and storage of Forms I-9, you will need to present: the name of the software and vendor utilized; the internal business practices/protocols related to the generation of, use of, storage of, security of, and inspection and quality assurance programs your electronically generated Forms I-9; the indexing system identifying how the electronic information contained in the Form I-9 is linked to each employee; documentation of the system used to capture the electronic signature, including the identity and attestation of the individual signing the Form I-9; and the audit trail. Further, pursuant to 8 CFR 274a.2(e)(3)(ii) Auditor, may contact you in the future to schedule a live demonstration of the creation and maintenance of an electronically generated Form I-9.

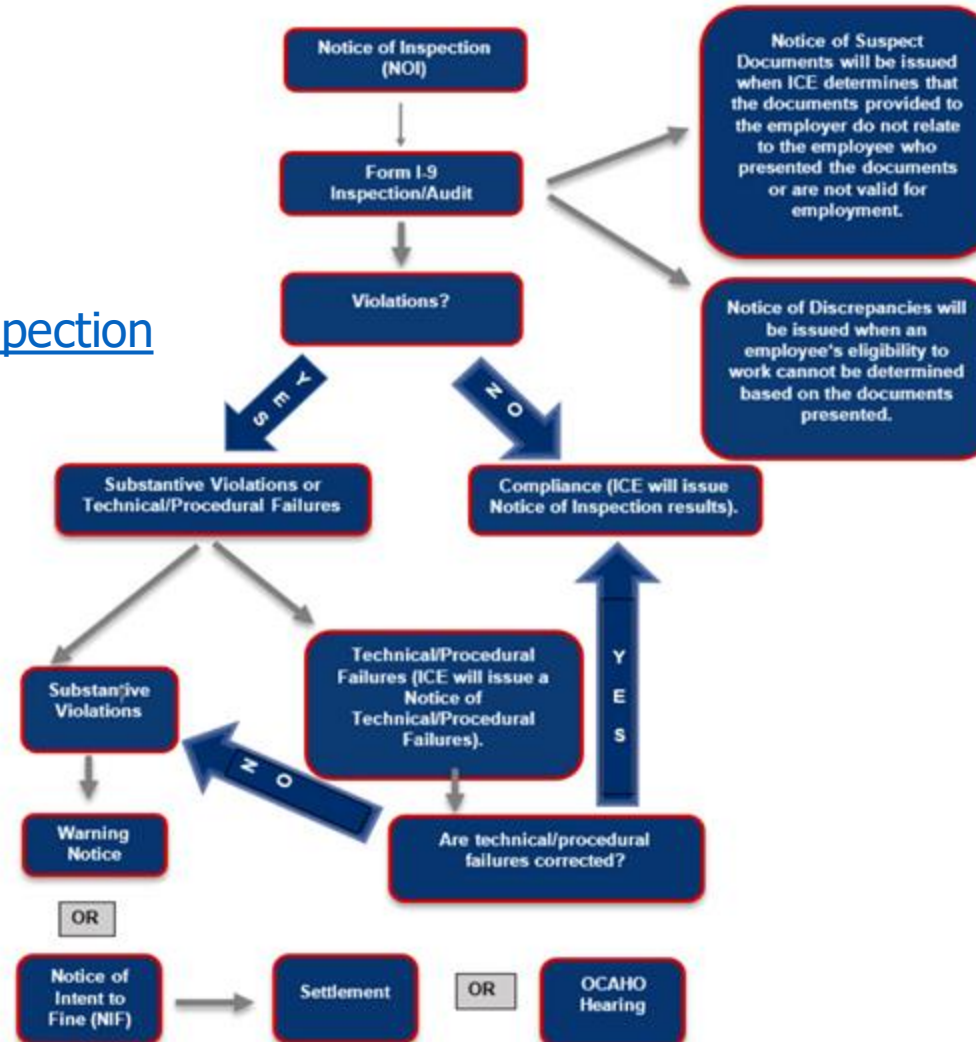
88

IMMIGRATION WORKPLACE ASSESSMENT LETTER

Process of an I-9 Audit- Cont'd



- <https://www.ice.gov/factsheets/i9-inspection>



I-9 Audits in Union Contracts



CBA's can require employers to:

- Alert workers to any Notice of Inspection from ICE
- Meet with workers and the union to discuss the process and workers' rights
- Notify the union and workers in writing of discrepancies found by ICE during the I-9 audit
- Allow workers a reasonable amount of time to correct discrepancies in work authorization documents.



Employer Best Practices



Communicate

- Inform union reps and workers the worksite is undergoing an ICE audit
- Provide proof of the initiation of an I-9 audit.
- Inform workers about how the process works and what they can expect if ICE officials detect problems.
- Inform individual workers promptly and in writing of any issues that ICE identifies.

Treat Workers Equally

- Implement the same timeline and requirements for all employees to update documents.
- Do not force workers to discuss their immigration status.
- Do not require that employees use certain documents to re-verify their work authorization status. This practice is called “document abuse” and can subject the employer to charges of discrimination.



Employer Best Practices



Provide Reasonable Amount of Time

- Provide workers a reasonable amount of time to correct work authorization problems identified during the I-9 audit.

Compensate

- If an employee chooses not to provide updated documents, employers still should compensate workers for any outstanding back pay, vacation time accrued or bonuses that they otherwise would be entitled to receive.
- If an employee does provide corrected documentation, that worker should be permitted to maintain his or her former position without suffering any loss in seniority.



Talking to Workers About Audits



- Remind workers not to panic. If workers have concerns about the I-9 audit, they should immediately contact a union representative or a workers' rights organization.
- Remind workers they have the right to remain silent. Workers have the right to choose not to speak with their employer about their immigration status. Workers who are nervous about speaking with their employer should request that a union representative or workers' rights advocate be present at any meetings regarding work authorization status.
- Workers who are informed that ICE has found a discrepancy in their work authorization documents should request notification of the basis for the discrepancy in writing and request as much time as possible to resolve the issue.
- If workers have valid documents that could help resolve the issue, they should present updated documents to their employer.
- It is important to inform workers that the employer will then send those updated documents to ICE and ICE may ask to interview the worker. If agents discover during the interview that the worker is unauthorized to work, they can arrest the worker at the interview. If ICE finds a problem with a worker's documents and that worker decides not to present new documents, the worker can be terminated.
- Workers should be aware that criminal penalties may apply for the use of false documents or documents belonging to others.

Concerns with E-Verify



For Employers, Workers, and the Economy

In 2017, the Trump administration called for all employers to use E-Verify to check work authorization of all new hires as part of its immigration policy priorities.

Mandatory E-Verify would drive more workers into the underground economy, which hurts workers, employers and the economy.

- Implementing E-Verify can be **costly** for employers, especially for small businesses, that will shoulder the costs and burdens implementing the system.
- Employers will need **equipment, high-speed internet and staff time to comply** with the system.

- The E-Verify system is also riddled with **errors and racial bias**.
- Workers lose hours and wages as they take time off while errors are corrected, and employers will lose production time while **workers sit idle** waiting for errors to be corrected.

The E-Verify logo features a stylized 'E' with a red and white striped pattern, followed by the word 'Verify' in a blue, sans-serif font.



U.S. Citizenship
and Immigration
Services

Worker's Rights



2 IF ICE COMES TO YOUR WORK

If agents come into your workplace, you have the right to keep on working and not answer their questions. You can tell them that you are busy and cannot speak to them. You do not have to divulge your national origin or immigration status.

ICE cannot enter private areas in your workplace without a search warrant, permission from the owner or designated supervisor, or probable cause that something illegal is happening (like someone fleeing or hiding).



Immigrant Contributions in NM



- Immigrant workers and families are essential to the economic, cultural, and civic fabric of New Mexico.
- In our state, immigrants represent 11% (although only approx 9% of the population) playing an outsized role of the workforce and in key sectors such as construction, agriculture, accommodation and food services, home healthcare and childcare, and oil and gas.
- In 2022, oil and gas added \$16.1 billion to NM's GDP, and fossil fuel workers accounted for 8.5% of NM's total workforce.
- In New Mexico, more than 63,000 immigrants are homeowners and immigrant-led households pay more than \$256 million in rent.
- Immigration overall has historically led to better—not worse—wages and work opportunities for U.S.-born workers.
- Immigrant workers and business owners contribute \$12 billion to New Mexico's economy.



4th & 5th Amendment Rights

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- The 4th Amendment protects people from unreasonable search and seizure by the government
- The 5th Amendment protects people from self-incrimination.
- These rights apply regardless of our country of origin, the language we speak, or our immigration status.

How do I/my Employees remember our 4th & 5th Amendment Rights?

“With ICE agents, we don’t have to open our mouth, the door, or let them into our private spaces.”

Tips BEFORE ICE Activity

- Create a company/organization-wide plan for how to respond to ICE activity (appoint a person per shift who will know how to respond). Know the difference between different types of ICE activity:
 - I9 audit
 - ICE is looking for an individual (collateral arrests are likely)
 - Raid
- Clearly mark public vs. private spaces with “private” or “employees only”
- Ensure management and your employees/co workers know the plan.
- Offer a know-your-rights-workshop for your employees (feel free to contact El CENTRO!)
- Have access to an attorney/s who specializes in both immigration and employment law.
- Put signage which clearly marks private spaces (i.e. anywhere the public can't enter)

Tips BEFORE ICE Activity- Cont'd

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- ICE Needs a Search Warrant (signed by a judge), the permission of the owner or designated supervisor, or probable cause that something illegal is happening in your workplace in order to enter private spaces.
 - Examples of private vs public
 - What happens if I don't know what type of paperwork they have?
- An arrest warrant, ICE detainer, or a final order of removal are not sufficient.
- If approached by an officer trying to enter a worksite or private space, advise workers they can say "I can't give you permission to enter. You must speak with my employer/supervisor" and ensure managers are trained to do the same.



Tips DURING ICE Activity

- If it's an 19 audit, insist on your 72 hours to prepare and contact your attorney.
- Your point person has the right to clearly tell ICE that they don't have your permission to enter private spaces without a search warrant. If they have a search warrant, limit the search to what is listed on the warrant.
- You have the right to ask officers for their names, badge #'s, and for whom they work.
- Take note of color of uniforms, logos, vehicles. **Document!**
- Your workers have the right to continue working and refuse to talk to ICE officials, show ID, or divulge their country of origin and/or their immigration status.
- You have the right to film the activity to ensure nobody's rights are violated. There could be consequences for actively impeding/interfering with an arrest.
- Identify any workers who have been detained, obtaining their full name, date of birth, and Alien ("A") number, if available.

Tips AFTER ICE Activity

- Identify any workers who have been detained (helpful information includes full name, date of birth, and Alien ("A") number, if available).
- Help impacted families find their loved ones in detention (MX Consulate, when a MX national; local organizations can help give guidance).
- Call your attorney/s. You can send your legal team to the nearby ICE holding facility (in ABQ) . The attorneys can demand to see the detained workers and begin interviewing them for additional information about the raid.
- Talk to impacted family members, give know-your-rights information, referrals to immigration attorneys and/or to local immigrants/workers' rights organizations. Connect with your local rapid response network and/or local immigrant-rights/workers' justice to see if the ICE activity was isolated or part of a broader targeting of local businesses.
- Raise money so the impacted family can explore posting bond.
- Explore if social pressure and/or advocacy by MOC's would be helpful.



Employer Obligations/Worker Protections

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- Ensure that your workers get paid for all time worked and that your business isn't violating labor laws:
 - NM's anti-wage theft legislation: treble damages, 3 year statute of limitation (unless continuous)
 - Make sure immigrant workers are afforded all non-mandatory benefits outlined in your personnel policies such as cashing out PTO/PSL
- Ensure that firing and hiring practices are not discriminatory (including ensuring that they are not based on national origin). See the New Mexico Human Rights Act (NMHRA).
- Ensure that I9 audits are not conducted in a discriminatory unlawful way.




Rights of Commercial Tenants & Landlord Responsibilities



Tenant Protections

- Fair Housing Act protects against national origin discrimination
- Local Tenant protections and resources



Submit your questions and Chuck Sheldon of T & C Management will answer during the Q&A Session!

Landlord Responsibilities

- What Landlords **CANNOT** Do
 - Discriminate based on status or origin
 - Ask for immigration documents
 - Evict tenants based on Immigration status

Landlord Responsibilities

- What Landlords **CAN** Do
 - Verify eligibility for specific programs
 - Request Documentation for Lease purposes
 - Conduct lawful Business operations

Resources & Next Steps

Local Resources

- [Small Business Office \(City of Albuquerque\)](#)
- [Office of Equity & Inclusion](#)
- [Immigration & Refugee Affairs](#)
- [El Centro de Igualdad y Derechos](#)
- [ACLU of New Mexico](#)
- [Mexican Consulate](#)
- [NM Center on Law and Poverty](#)
- [NM Immigrant Law Center](#)
- [Catholic Charities of NM](#)
- [Lutheran Family Services](#)
- [ABQ Faithworks](#)

National Resources

- [U.S. Department of Labor](#)
- [US Citizenship & Immigration Services \(USCIS\)](#)
- [American Business Immigration Coalition](#)
- [American Federation of Labor | Congress of Industrial Organizations \(AFL-CIO\)](#)
- [Organized Power in Numbers](#)

Next Steps

The remainder of this webinar series will focus on individuals and community groups
cabq.gov/communityprotections

Resources & Next Steps

Next Steps

Immigration and Your Community: Know Your Rights
Understanding Rights & Protections for Family, Friends and Neighbors

Thursday, February 6, 5:30 - 6:30 p.m.

Wednesday, February 12, 6:00-7:00 p.m.

Wednesday, February 19, 6:00-7:00 p.m.

Wednesday, February 26, 12:00-1:00 p.m.

Wednesday, March 5, 12:00-1:00 p.m.

Wednesday, March 12, 12:00-1:00 p.m.

Join online at cabq.gov/communityprotections



Questions?

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Enter your Questions into the Q&A Box below!



Chuck Sheldon, CCIM of T & C Management will answer your confidential Commercial Landlord and Tenant questions (Not Residential)



Rachel Lazar of El Centro de Igualdad y Derechos will answer your confidential workplace questions

Thank You! Contact Us



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