

Navigating ICE and DHS Enforcement in the Agricultural Workplace

Misty Wilson Borkowski | Webinar hosted by National Agriculture Law Center | February 4, 2026

Why This Matters for Agriculture

Why Farms Are at Higher Risk

Heavy reliance on seasonal and foreign labor

Mixed-status workforces are common

Work happens in open fields, housing, and remote locations

Increased worksite and community-level enforcement

What This Webinar Will Cover

Today's Agenda

What ICE is legally allowed to do

Administrative inspections vs. raids

Employer and worker rights

Practical steps to reduce risk

What to do if ICE shows up

Managing the aftermath

Legal options for workers

Understanding ICE's Authority

What ICE Can (and Cannot) Do

ICE can:

Conduct
administrative I-9
inspections

Enter public areas
without a warrant

Arrest individuals
with probable
cause

ICE cannot:

Enter private areas
without consent or
a judicial warrant

Force employers to
answer questions

Demand
documents on the
spot (in most
cases)

Administrative Inspection vs. Raid

Not All ICE Visits Are the Same

Administrative Inspection

- Usually paperwork-focused (I-9s)
- Employer receives a Notice of Inspection (NOI)
- Three (3) business days to respond

Raid / Enforcement Action

- Targeted arrests
- May involve agents in the field or workplace
- Often unexpected and disruptive

Why this distinction matters: Your response should be very different.

Administrative Inspection: Notice of Inspection (NOI)

What to Do If You Receive an NOI

- Do **not** hand over documents immediately
- Calendar the deadline
- Contact legal counsel
- Review I-9s before submission
- Do not alter or backdate forms

Common mistakes:

- Overcorrecting
- Selective re-verification
- Panicking and oversharing

Raid / Enforcement Action: Employer Rights During Enforcement

ASK THREE QUESTIONS - Politely ask:

- **Who are you?** (Ask for identification)
- **Why are you here?**
- **Do you have a warrant?**

Your Rights as an Employer

- Right to review warrants
- Right to limit access to private areas
- Right to remain silent
- Right to counsel

Important: Cooperation ≠ consent

CHECK THE WARRANT

Not all warrants are the same.

✓ Judicial Warrant (signed by a judge)

- May allow entry to specific private areas
- Check name, address, and scope

JUDICIAL WARRANTS v. IMMIGRATION WARRANTS

The image shows two forms side-by-side. The left form is a 'SEARCH AND SEIZURE WARRANT' from the 'UNITED STATES DISTRICT COURT for the Eastern District of California'. It has handwritten annotations: 'Is this the right address?' pointing to the address field, 'Is it still current?' pointing to the date field, and 'Note: only the person, property, & areas specified may be searched' pointing to the 'To: Any authorized law enforcement officer' field. The right form is a 'WARRANT OF REMOVAL/DEPORTATION' from the 'DEPARTMENT OF HOMELAND SECURITY U.S. Immigration and Customs Enforcement'. It has a large red 'SAMPLE' watermark and a red box with the text 'THESE ARE VISUAL CUES THAT THIS IS AN IMMIGRATION WARRANT' pointing to the title and the 'To any immigration officer of the United States Department of Homeland Security' field.

✗ Administrative Warrant (ICE / DHS form)

- Does NOT allow entry into private areas
- Does not require you to provide documents immediately
- You may review the warrant before allowing access.

JUDICIAL SUBPOENAS v. IMMIGRATION SUBPOENAS

The image shows two forms side-by-side. The left form is a 'SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION' from the 'UNITED STATES DISTRICT COURT for the Eastern District of California'. It has handwritten annotations: 'Is this directed to you?' pointing to the 'To: (Name of person to whom the subpoena is directed)' field, 'Does it specify what documents are being sought?' pointing to the 'Production: YOU ARE COMMANDED to produce at the time, date, and place specified below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material:' field, and 'Is it signed by a clerk of court?' pointing to the 'Signature of Clerk or Deputy Clerk' field. The right form is an 'IMMIGRATION ENFORCEMENT SUBPOENA' from the 'DEPARTMENT OF HOMELAND SECURITY U.S. Immigration and Customs Enforcement'. It has a large red 'SAMPLE' watermark and a red box with the text 'THESE ARE VISUAL CUES THAT THIS IS AN IMMIGRATION SUBPOENA' pointing to the title and the 'To: (Name, Address, City, State, Zip Code)' field.

Worker Rights (High-Level)

Worker Rights During ICE Encounters:



Right to remain silent

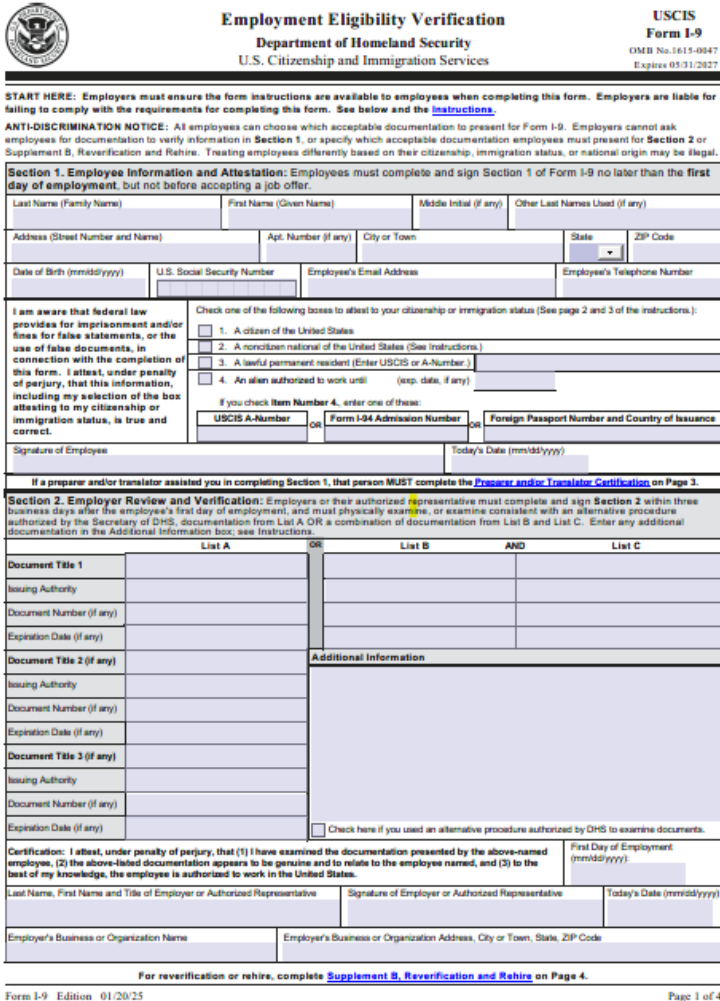
Right to refuse consent to searches

Right to ask for a lawyer

Right not to sign documents they don't understand

I-9 Compliance: Reducing Risk Ahead of Time

Strengthening Your I-9 Practices



The image shows the front page of Form I-9, titled "Employment Eligibility Verification" and "Form I-9". It is issued by the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS). The form includes instructions for employers and employees, a section for employee information and attestation, and a section for employer review and verification. The form is dated 01/20/25 and is page 1 of 4.

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

USCIS
Form I-9
OMB No. 1615-0047
Expires 05/31/2027

START HERE: Employers must ensure the form instructions are available to employees when completing this form. Employers are liable for failing to comply with the requirements for completing this form. See below and the [instructions](#).

ANTI-DISCRIMINATION NOTICE: All employees can choose which acceptable documentation to present for Form I-9. Employers cannot ask employees for documentation to verify information in **Section 1**, or specify which acceptable documentation employees must present for **Section 2** or Supplement B, Reverification and Rehire. Treating employees differently based on their citizenship, immigration status, or national origin may be illegal.

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 (if any) Other Last Names Used (if any)

Address (Street Number and Name) Apt. Number (if any) City or Town State ZIP Code

Date of Birth (mm/dd/yyyy) U.S. Social Security Number Employee's Email Address Employee's Telephone Number

I am aware that federal law provides for imprisonment and/or fines for false statements, or the use of false documents, in connection with the completion of this form. I attest, under penalty of perjury, that this information, including my selection of the box attesting to my citizenship or immigration status, is true and correct.

Check one of the following boxes to attest to your citizenship or immigration status (See page 2 and 3 of the instructions).

☐ 1. A citizen of the United States

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

☐ 3. A lawful permanent resident (Enter USCIS or A-Number:)

☐ 4. An alien authorized to work until (exp. date, if any)

If you check item Number 4, enter one of these:

USCIS A-Number OR Form I-94 Admission Number OR Foreign Passport Number and Country of Issuance

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

If a preparer and/or translator assisted you in completing Section 1, that person MUST complete the [Preparer and/or Translator Certification](#) on Page 3.

Section 2. Employer Review and Verification: Employers or their authorized representative must complete and sign Section 2 within three business days after the employee's first day of employment, and must physically examine, or examine consistent with an alternative procedure authorized by the Secretary of DHS, documentation from List A OR a combination of documentation from List B and List C. Enter any additional documentation in the Additional Information box; see Instructions.

List A OR List B AND List C

Document Title 1 Issuing Authority Document Number (if any) Expiration Date (if any)

Document Title 2 (if any) Issuing Authority Document Number (if any) Expiration Date (if any)

Document Title 3 (if any) Issuing Authority Document Number (if any) Expiration Date (if any)

Additional Information

Check here if you used an alternative procedure authorized by DHS to examine documents.

Certification: I attest, under penalty of perjury, that (1) I have examined the documentation presented by the above-named employee, (2) the above-listed documentation appears 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.

Last Name, First Name and Title of Employer or Authorized Representative Signature of Employer or Authorized Representative Today's Date (mm/dd/yyyy)

Employer's Business or Organization Name Employer's Business or Organization Address, City or Town, State, ZIP Code

For reverification or rehire, complete [Supplement B, Reverification and Rehire](#) on Page 4.

Form I-9 Edition: 01/20/25 Page 1 of 4

Complete I-9s for every employee

Use current version of Form I-9 (<https://www.uscis.gov/i-9>)

Consistent procedures for all workers

Secure storage and retention rules

Accept documents that reasonably appear genuine

Do not ask for specific documents

Research what document to reverify (<https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274>)

Avoid over-documentation

Reminder: I-9 audits ≠ immigration status audits

Creating an ICE Response Plan

Every Farm Should Have a Plan

Designate:

- Point of contact for government agents
- Backup decision-maker
- Legal counsel contact

Prepare:

- Written protocol
- Front-line staff training
- Signage for private areas

Practice Makes Prepared

Using Role-Playing to Prepare for ICE Encounters

- Conduct short practice or role-play sessions
- Train supervisors and front-line staff
- Practice who speaks and who stays silent
- Rehearse checking warrants and denying consent
- Reduce panic and inconsistent responses

If ICE Arrives On-Site

First Steps When ICE Shows Up

- Stay calm
- Ask for identification
- Ask for a warrant
- Determine scope and location
- Do not escort agents into private areas without review
(Field, barn, housing = usually private areas)

PUBLIC VS. PRIVATE AREAS

ICE may enter:

- Public areas (parking lots, public entrances)

ICE may **NOT** enter without consent or a judicial warrant:

- Fields
- Barns
- Packing sheds
- Offices not open to the public
- Worker housing

👉 Clearly state: **“This is a private area. I do not consent to entry.”**

SAMPLE ROLE-PLAY SCRIPT

Scenario: ICE agents arrive at a farm during normal work hours.

Role 1: ICE Agent (played by trainer): “We’re with ICE. We’re here to ask some questions and need access to your worksite.”

Role 2: Front-Line Employee / Supervisor:

- “I’m not authorized to answer questions. Our designated contact is [Name]. Let me call them.”
- *(Employee steps away and makes the call.)*

ICE Agent: “We just need to take a quick look around.”

Designated ICE Contact:

- May I see your identification, please?”
- Can you tell me the purpose of your visit?”
- Do you have a warrant?”

If ICE Presents an Administrative Warrant (ICE Form): “This is private property. I do not consent to entry into non-public areas.”

- **If ICE Presents a Judicial Warrant:** “Thank you. I need to review the warrant.” “The warrant lists these areas. We will comply within its scope.”

ICE Agent: “Can you give us a list of your workers or housing assignments?”

Correct Response: “I’m not answering questions or providing documents without speaking to counsel.”

ICE at Fields, Housing, or Worksites

Special Issues in Agricultural Settings

- Fields and housing are often private property
- Worker housing has heightened privacy protections
- Language barriers can escalate confusion
- Visibility can create panic quickly

Preparation reduces chaos.

Communicating with Workers

How to Communicate Without Creating Panic

Do:

- Share factual information
- Reassure workers about rights
- Use trusted supervisors

Avoid:

- Speculating
- Encouraging flight
- Asking about immigration status
- Making promises you can't keep

IF ARRESTS OF A WORKER OCCURS

- Do not interfere
- Document what happened (time, location, names)
- Preserve records
- Communicate calmly with remaining workers
- Expect possible follow-up inspections

After an Enforcement Action

Managing the Aftermath

- Document what occurred
- Secure records
- Communicate carefully with remaining workers
- Prepare for possible follow-up inspections
- Address staffing and operational impacts

Legal Options for Workers

Possible Immigration Relief (High-Level)

Depending on facts:

- Bond and custody issues
- Prosecutorial discretion
- U visas / T visas
- Asylum or other humanitarian relief

Key point: Early legal review matters.

Special Considerations for Multi-State Operations

Large or Multi-State Farms

- Consistent policies across locations
- Training for supervisors in each state
- Local law enforcement coordination issues
- State-specific employment laws still apply



Key Takeaways

What You Should Remember

- Preparation is the best defense
- Not all ICE visits are raids
- Know your rights and your limits
- Train staff *before* an incident
- Get legal help early

Thank you

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