

# WHAT DOES “BUY AMERICAN, HIRE AMERICAN” MEAN FOR YOUR DEALERSHIP?

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We’ve heard domestic manufacturers push “American-made” slogans for years. Whether it was “See the USA in your Chevrolet,” or “The heartbeat of America” from Chevrolet, or Plymouth’s infamous, “Isn’t that the kind of car America wants?” the auto industry is no stranger to patriotic appeals. However, given the “America First” attitude championed by the Trump administration, there is not only an increased focus on American cars, but also on the American workers who sell and service those cars.

## EXECUTIVE ORDER LEADS TO INCREASED IMMIGRATION ENFORCEMENT

On April 18, 2017, President Trump signed the [Buy American, Hire American](#) executive order with the stated purpose of creating higher wages and employment rates for U.S. workers. With this order, the Secretaries of State, Labor, and Homeland Security, as well as the Attorney General, were instructed to propose new rules and issue new guidance to protect the interests of U.S. workers in the administration of the current immigration system.

The “Buy American, Hire American” order has resulted in increased enforcement actions such as raids by U.S. Immigration and Customs Enforcement (ICE) and a rising number of federal I-9 investigations. The latter of these actions can impact any dealership since all dealerships must comply with the I-9 form requirements established in November 1986, when Congress passed the Immigration Reform and Control Act (IRCA). IRCA prohibits dealerships from hiring people for employment in the United States,

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including U.S. citizens, without first verifying their identity and employment authorization on the I-9 form.

Like all employers, dealerships must ensure proper completion of the I-9 form for each individual they hire for employment in the United States. Both the dealership (or an authorized representative of the dealership) and their employees must complete a designated portion of the form. The employee must attest to their immigration status and present the dealership with acceptable documents evidencing identity and employment authorization. Your dealership must examine the employment eligibility and identity document(s) to determine whether the documents reasonably appear to be genuine, relate to the employee, and record the document information on the I-9 form.

## **NEW I-9 FORMS COULD BE LIABILITY TRAP**

On July 17, 2017, [a new I-9 form was released](#) by the U.S. Department of Homeland Security, replacing the previous edition, which had been issued fairly recently in November 2016. Beginning September 18, 2017, only the new version of the form is acceptable for verifying the employment authorization status of workers. You should use the new version of the form for all new hires, rehires, and reverifications. However, no action is required with regard to previously completed I-9 forms.

Ignoring changes to the form can have a significant impact on your dealership, as noncompliance can create significant liability in the event of a governmental audit. Audits can be the foundation for a raid, civil monetary penalties, and criminal sanctions. Substantive I-9 errors or uncorrected technical violations can cost your dealership anywhere from \$220 to \$2191 per violation, and fines for knowingly hiring or continuing to employ an unauthorized worker can range from \$548 to \$21,916, depending on the number of overall violations that are discovered.

## **WHAT SHOULD YOU DO?**

In light of these new policies meant to increase focus on hiring American workers and heighten scrutiny placed on the immigration practices of all workplaces, your dealership should ensure that your I-9 compliance processes are in place, up-to-date, and followed by all employees. Periodic I-9 audits by counsel are also beneficial in correcting errors

on existing forms and ensuring the implementation of best practices moving forward. If you have questions, reach out to [your Fisher Phillips attorney](#) or anyone in our [Automotive Dealership Practice Group](#).

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