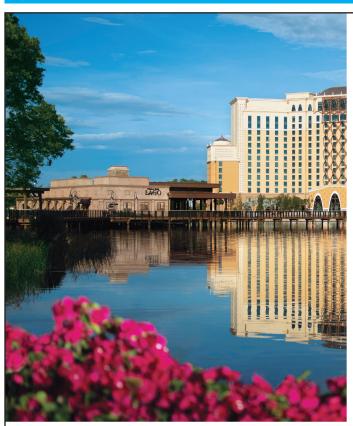
# **InsulationContractorsReport**







## **ICAA Professional Designations**

ICAA Membership shows your customers and industry peers that you are dedicated to the best business practices and highest service standards. Here are the ways ICAA's professional designations will help you stand out from the crowd. Applications for the ICAA Professional Designations can be found on the ICAA Member Site.

### **ICAA** Member

ICAA is a national organization representing insulation contractors & suppliers. Our mission is to support our members by developing and executing programs to keep them on the leading edge in the rapidly changing world of insulation. ICAA delivers personalized service, regardless of the materials you install, where you buy from, or the size or age of your business. ICAA membership is for the whole company, not just an individual; all employees have full access to the webinars and other educational content on our Member Site. If you need access, request access to the ICAA Member site by contacting icaa@insulate.org.



### **ICAA Qualified Contractor**

The ICAA Qualified Contractor Program designates member contractors as insulators who subscribe to the best business practices. The ICAA Qualified Contractor Program is intended to provide guidance to consumers in several core areas that quality-conscious contractors follow in the administration of their businesses. Member contractors are required to comply with the 11 points of the ICAA Qualified Contractor Program, including adherence to code requirements, insurance, licensing and registration, and federal regulations.



# ICAA Certified Commercial Building Insulation Contractor

ICAA developed the Certified Commercial Building Insulation Contractor Program to identify the commercial building insulation experience and resources of the specialty subcontractor. Insulation contracting companies that distinguish themselves by meeting all the required criteria for certification receive this recognition. Although many manufacturers of commercial insulation products offer certification programs, it is ICAA that offers a single, uniform criteria, not just standards for one kind of product. These criteria were developed by industry leaders by consensus with the goal to encourage a higher level of professionalism in the commercial building insulation industry.



# ICAA Qualified Home Retrofit Contractor

ICAA's NEW Qualified Home Retrofit Contractor Program designates ICAA Member Contractors as insulators who subscribe to the best home retrofit business practices. Your company will be listed in a national referral database generated by HomeBoost (www.homeboost.com), a leading-edge technology company providing a do-it-yourself home energy assessment program for homeowners, geared to promoting the services of insulation contractors.





# Preparing for Uncertain Times

Jonathan Belanus, ICAA President JB Insulation & Drywall, Inc. Email: jb@insulate.org

In this second quarter of 2025, I am reminded of the quote, "the only thing certain in life is uncertainty." From the day-to-day upheaval in the financial markets to uncertainty about the federal budget, it's hard to predict the outcome of these uncertain times. While there's no surefire way to predict the future, we can prepare ourselves for uncertain times by:

### Staying informed from the best advisors

This is where ICAA comes in. By tapping into leading minds in the industry, hosting cutting-edge webinars, and sending real-time updates to members, ICAA provides endless resources to stay informed and help navigate these uncertain times. Learning from the best has kept my business at the forefront, and I feel a sense of comfort knowing that ICAA has my back. ICAA is in close touch with government officials, lawyers, and industry leaders, and this has been a huge factor in my company's success.

ICAA's mission is to assist its members by developing and promoting programs and partnerships to keep them on the leading edge of this rapidly changing world. ICAA delivers personalized service and an ever-expanding range of benefits. For example, ICAA has helped insulators challenge these types of OSHA citations:

- Installer cited for lack of a respiratory protection program
- Installer falls 20 feet from a scaffold and ends up hospitalized
- Installer falls and injures himself in the attic while trying to run away from an animal

### **Showcasing professional designation**

ICAA added a new Professional Designation: the ICAA Qualified Home Retrofit Contractor which designates ICAA member contractors who subscribe to the best home insulation retrofit business practices. ICAA Qualified Home Retrofit Contractors will be listed in a national referral database generated by HomeBoost, a leading-edge technology company providing a do-it-yourself home energy assessment kit for homeowners, gearing them to select professional trades to upgrade their homes.

### **Leveraging networking opportunities**

Every time I walk into the ICAA Convention and Trade Show, I am reminded of just how important it is to engage in in-person, face-toface networking across our industry. Phone calls and emails are great, but there's nothing like catching up with a business associate or meeting a new face eager to strike the next deal. It is these sorts of natural interactions that separate the ICAA Convention and Trade Show from any other part of the industry. Walking through the Trade Show, I get to see new trends in the industry with my own eyes and hear from others on the front lines of these changes. I never know where these opportunities will lead, and if you're not there, you'd miss out on the chance for a new partnership or cutting-edge industry knowledge. Many of my company's successes are due to the ICAA Convention and Trade Show and those that I have met there.

ICAA's priority remains clear: serving you. ICAA is here to help you keep your focus on your business. In uncertain times like now, the only thing certain is that we have lots to come at ICAA in 2025!

### Mark your calendar now for:

ICAA 2025

October 8-11, 2025
Disney's Coronado Springs Resort
Orlando, FL







# My Employees are Legal! Beware of the ICE Investigator/Audit

Philip J. Siegel, Member/Shareholder Hendrick, Phillips, Salzman & Siegel, P.C. Email: pjs@hpsslaw.com

The hottest topic right now for employers is having Immigration and Customs Enforcement (ICE) agents raiding your jobsite or office to seize your employees or audit your Forms I-9 (Employment Eligibility Verification).

The current administration is committed to verifying the legal status of US workers, vowing to audit the I-9s of 12,000 businesses in 2025. Here we recommend strategies for handling both ICE raids and I-9 audits so that you may manage either event with confidence.

### The ICE Raid

ICE agents seek out employees without legal status to work in the United States. What are your (and your employees') rights and obligations if ICE shows up at your office or jobsite?

When ICE arrives, you're under no legal obligation to allow them access to your space unless they produce a judicial ("search") warrant signed by a judge. This indicates the judge has been convinced there's possibly a violation of law at your business. If ICE agents don't have a search warrant, you have the right to refuse them entry.

When ICE agents arrive at a jobsite with a signed search warrant in hand, first read the warrant to determine its exact scope. If the judge permits a search naming only the roofing contractor, then no other trades would be subject to this search. In this example, ICE agents are going to be permitted past the gate onto the non-public portion of the construction site, but only for the purpose of searching or seizing with respect to the roofing contractor alone. If the agents approach your company on that jobsite, you have the right to refuse access to the non-public areas of your work unless they provide another judicial warrant naming your company. However, if the warrant authorizes a search of the entire worksite, then all trades are subject to the warrant. The key is to determine the scope of the permissible search signed by the judge and memorialized in the judicial warrant.

A second, more common form of warrant is the

administrative warrant, which is signed by the Department of Homeland Security, not a judge, and it does not grant ICE agents authority to access non-public areas of your facility or jobsite. An administrative warrant is not a search warrant but instead authorizes ICE to arrest a suspected illegal alien in the United States. In this instance, you do not have an obligation to allow ICE agents into the non-public areas of your office or onto the jobsite, nor do you have an obligation to produce that employee to the agents. You don't even have to tell them whether the employee is there: if this person is elsewhere on property and the agent has no search (judicial) warrant, you do not have to allow ICE access to your employees.

In light of the anticipated increase in Form I-9 audits and workplace visits from ICE, every employee must know, as applicable to their job duties, appropriate actions to confidently take when ICE agents arrive.

Preliminarily, it is important for each company to establish chains of command (one for office, one for jobsite) to follow for a regulatory agency visit, naming those individuals to communicate with the regulatory inspector. The same principle applies when ICE agents are at your doorstep: you know which employees you can confidently assign the task of being your company's face and eyes and ears with the ICE agents.

Similarly, it is important that your company prepare defined protocols to follow for a regulatory inspection. Your protocol for handling an ICE visit must include your reading the warrant, copying it and the agents' business cards, and calling your attorney. Never leave ICE agents unattended, especially with sensitive records nearby. Escort them through your office or jobsite. Make sure you understand the warrant's scope: if the agents start searching beyond what the warrant permits, then vocally object and tell the agents to note your objection in their records.

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# ICAA Webinar on Restrictive Covenants

### Jill Mead Senior Legal Counsel Federated Insurance



#### What to Do Now?

Federated Insurance Senior Legal Counsel Jill Mead presented at ICAA's webinar addressing challenges insulation contractors, suppliers, and distributors face in limiting unfair competition by former employees. Restrictive covenants such as non-compete, non-solicitation, and non-disclosure are conditions of employment restricting individuals from working for or operating a business that competes with their former employers.

### Background

In 2024, the Federal Trade Commission (FTC) attempted to issue a nationwide ban on all existing noncompete agreements and to bar employers from entering into noncompetes with any workers. The FTC proposed rulemaking prohibits noncompetes that are part of employment agreements, and it extended to nonsolicitation clauses, training-repayment agreement provisions, and forfeiture-for-competition clauses which may affect deferred compensation agreements. The proposed FTC rule excluded noncompete clauses with "senior executives" if there is a clause in effect as of the rule's effective date.

FTC action on this issue has been suspended.

The presentation clarified the nature of each type of clause used in agreements with employees, and reviewed their pros and cons. Caution: the laws in each state are ever changing, so check these two sites for the most up-to-date status for each type of clause in every state:

https://bit.ly/statenoncompetemap https://bit.ly/statenoncompetesurvey

Non-Compete Clause – former employees cannot work in your geographic area for a specific period of time:

- Only legal for salaried-exempt employees in specific positions – Sales, Management, key professionals, or employees with high levels of compensation
- Only enforceable if geographic limits are specified, such as a salesperson's sales territory, or a specified radius from your business's location
- Time restrictions often are two years, but can be as short as six months
- ◆ States imposing a total ban (with narrow exceptions): California, North Dakota, Wisconsin, Oklahoma; Wyoming joins this list in July 2025

Non-Solicitation Clause – former employees can work in your geographic area, but cannot solicit your clients or employees:

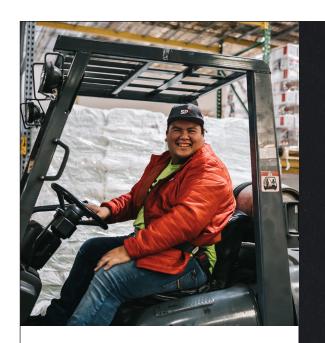
- Customer Non-solicitation protects your current customer base:
  - ♦ Former employees are restricted from attempting to solicit your existing customers
  - States imposing a total ban: North Dakota and California
  - ♦ States with a limited ban: Illinois, Oklahoma, Nebraska, and Georgia
- ◆ Employee Non-solicitation − protects your current workforce:

- ♦ Former employees are restricted from soliciting your current employees
- ♦ State imposing a total ban: California
- ♦ State with an income restriction: Illinois
- ♦ Note non-solicitation is still allowable in most states; some states restrict non-solicitation of either customers or employees, but not both

A fundamental concept law students learn is "offer + acceptance + consideration = contract," where consideration is an exchange in which both the employer and the employee benefit. Historically, continued employment was the employee's benefit in exchange for signing a non-compete.

- Legal Issues and Limitations:
  - ♦ Consideration: is continued at-will employment enough?
    - ◆ Massachusetts statute now requires "fair and reasonable consideration independent from the continuation of employment"
  - ◆ Tennessee statute allows continued at-will employment, but only if the employment continues after signature for a "sufficient duration"
  - ◆ Illinois statute allows continued at-will employment, but only if the employment continues after signature for a duration of two years
  - ◆ Offering financial compensation from a few hundred to a few thousand dollars is another form of exchange benefitting your new employee
  - ♦ Notice: when must employers disclose a restrictive covenant requirement?
    - ♦ Historically, employees were blindsided by non-competes, having to sign the first day of work, without prior notification of this mandatory consideration
    - ◆ Providing advance notice before employment start date that this job comes with a restricted covenant is now required in many states, protecting prospective employees from making a decision that could hurt them financially
      - ♦ Illinois requires 14 days' notice
      - ♦ Maine requires three days' notice
  - ♦ Judicial Modification: may a court "blue pencil" (modify) the existing agreement to reform it? An employer suing a former employee to enforce the non-compete, where the employee counters the non-compete is too vague in definition, the court may have the ability and right to come up with a compromise, modifying the non-compete to try to closely match the intent of both parties when they signed it. This works only if you have language in your agreement giving the court this right.
  - ♦ Type of Termination: is it enforceable in notfor-cause terminations? Many courts and statutes limit enforcement of restricted covenants to those who voluntarily quit or are terminated for cause.

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### **FREE Marketing Support For Your Insulation Business!**

The 25C tax credit is a national incentive available to every household in the United States. The new 25C Means Business marketing program is a powerful – and free – business tool that provides insulation contractors with free tools to maximize the benefits of the insulation tax credit and grow their residential retrofit business.

All contractors enrolled in the 25C Means Business program will have access to a wide variety of free marketing and sales materials (valued at \$20,000) designed to position you as a trusted expert in insulation tax credits.

A recent Webinar, produced in conjunction with NAIMA who sponsors the 25C Means Business program, is available for review on the ICAA Member Site. This webinar is a full discussion of what the program offers, including the training, sales, and marketing resources available for insulation contractors nationwide, such as:

- Educational training videos for your staff
- ◆ FAQs and Fact Sheets
- Homeowner-facing tax credit landing pages, blog articles, and videos
- ◆ Contractor badges and truck decals
- And much more!

ICAA Members can view the webinar in the Webinar Archive on the ICAA Member Site.

Contact 25C Means Business at www.25cmeansbusiness.org/ and learn how you can participate at no cost.



### Continued from Page 7

Loosening restrictions on individuals laid off or whose position was eliminated (they did nothing wrong) gives them a reasonable chance to find a new job utilizing their skills and talent.

- Enforcement Challenges:
  - ♦ Choice of law/venue: which state's law applies and which court has the power to hear the case?
  - ♦ Proving Damages: what did you lose (how many customers?) and how can you prove it
  - $\dots$  especially without dragging your customers into the dispute?

Yet another kind of restrictive covenant involves "stay or pay," where tuition reimbursement, an apprenticeship, or a relocation program is covered by the company, but the employee must repay if they voluntarily leave the company.

### ◆ TRAPs - Training, Repayment, and Agreement Provisions:

- ♦ Stated by the Department of Labor, FTC, and National Labor Relations Board under the previous administration to be illegal restraints on an employee's freedom to change jobs
- ♦ Current administration has not yet put forth an opinion

The final restrictive covenant reviewed is on **Confidential Information and Trade Secrets** 

- Pros
- ♦ Neither prohibited nor restricted anywhere
- $\diamondsuit$  Long-standing, traditional obligation supported by substantial legal history

- ♦ Trade Secret protection is statutory
- ♦ Protection is uncontroversial
- Cons
- ♦ Nearly always a threshold concern about whether information is actually "confidential" or "trade secret."
- ♦ Trade Secret laws are highly technical with specific requirements to maintain protection.
- ♦ Much more difficult to prove wrongdoing

The following are recommended best practices for employers in drafting and enforcing restrictive covenants:

- Choose the least restrictive non-compete and nonsolicitation language that still meets your goals and complies with applicable law.
- Reasonableness to the employee is the key to enforceability.
  - ♦ Time: Less is more
    - lackloaise2 6 months to 1 year is typical
    - lack 2 years may be reasonable for salespersons and top executives.
  - Place: Set reasonable geographic limits
    - ◆ This almost never means entire states or countries
    - Avoid "one-size-fits-all" limits; be specific to the person/position
  - ♦ "Customers": Avoid overbroad definitions of restricted customers. Limit based on direct contact and/or knowledge gained during employment.
  - ♦ Voluntary & For-Cause Terminations Only: Consider reducing or eliminating obligations where you lay-off or terminate the employee without cause.

### Continued from Page 5

Remember: you (and your employees) have the right to remain silent. Wait to answer any questions until your attorney is present. Any questions you do answer, provide short, truthful answers. Do not provide any information beyond that which they are asking. Do not speculate. Do not lie.

### The ICE Form I-9 Audit

After serving an employer with a Notice of Inspection (NOI) to perform a Form I-9 Audit, ICE examines your employees' Forms I-9 and other documentation to confirm each employee has the right to work in the US and your company follows legal hiring practices. Each of your employees (not your independent contractors) must have a properly completed Form I-9 (unless they have maintained continuous employment with your company since before the law required completion of the Form I-9). This form verifies both the identity and work authorization status of each employee hired.

The NOI might be hand-delivered by ICE agents without warning, or you may receive the NOI via a courier like Federal Express. You will have three days to gather the I-9s and other documentation requested by ICE in preparation for this audit. ICE may choose to inspect these records onsite or request

that you send your records to them. If the inspection occurs at your office, follow your regulatory inspection protocol by placing the inspectors in a neutral area (an empty conference room), where there are no other records or sensitive documents around. In either case (onsite, files sent), call your attorney right away.

Caution: if ICE agents arrive with a judicial search warrant for the I-9s, you must produce these upon demand; you do not have three days to prepare. In fact, you will not be handling these documents at all: ICE agents will go to where you store these documents, open the cabinets themselves, and remove the files from their storage location. For this reason, it is essential that you keep these documents separate from your employee files and any other sensitive records. You don't want your ICE auditor going through a personnel file and discovering other violations of the law, such as wage and hour issues, misclassification issues, or safety concerns, as those will likely prompt subsequent audits by other agencies.

Documents typically requested as part of a Form I-9 audit are as follows:

• Business Information (EIN/TIN/Licenses/Articles of Incorporation)



- ◆ Lists of current and former employees and their respective Form I-9s
  - ♦ Form I-9 for each current employee
- ❖ Form I-9 for former employees who were on your payroll for three years or more must be retained for one year after their separation
- ♦ Form I-9 for former employees who were on your payroll for less than three years must be retained for three years from their date of hire
- Payroll records
- Form 1099s to ensure you're not classifying workers as independent contractors

A desirable outcome from this inspection is that all your documentation is in order. Likely outcomes, though, often include either a Notice of Suspect Documents (ICE suspects the documents are not valid) or a Notice of Discrepancy (ICE determines documents do not support the employee's eligibility to work), either of which you have ten days to resolve to ICE's satisfaction. Again, in receiving one of these notices, inform your attorney right away. Either of these letters could possibly lead to unintended consequences affecting your business, as well. (See www.insulate.org/casestudy for case studies, including a "worst case" scenario.)

### **Best Practices**

Prepare ahead for a Form I-9 audit to avoid errors from a rushed response: train employees on response protocol, keep documents required for an audit separate from any other records or sensitive documentation (eg: personnel files), and perform your own internal I-9 audit annually. Familiarize yourself with the requirements of the I-9 document: download the ICE Handbook for Employers (M-274). Fundamental points for completing Form I-9:

- Even if you have only one employee, that employee must have an I-9
- Use the current version of Form I-9 (download from ICE website)
- Employee completes Section 1 no later than the first day of work
- Social Security number is required only if you are an E-Verify participant
- Follow correct date format: DD-MM-YYYY
- Employer completes Section 2 no later than the employee's third day of work
- Examine documents provided by the employee to reasonably determine whether they are genuine
- E-verify participants must copy the employee's permanent resident document
- Keep current employees' I-9s in one binder, and former employees' I-9s in a separate binder (or behind a separate tab in the existing binder)

- Note date of termination on any former employee's I-9 (typically in the top margin)
- For any former employee of three years or more, destroy their I-9s one year after their date of separation
- For any former employee of less than three years, destroy their I-9s three years after their hire date

Next, immediately correct any discrepancy, error, or omission, so that it will not result in a fine during an ICE audit. By documenting findings and their corrective actions at the time of discovery, you demonstrate your "good-faith" effort to comply, which can potentially reduce the size of any fine. Some examples:

- Each employee's I-9 must be the version considered current at the time of that employee's hiring. Your internal audit reveals an out-ofdate form used at an employee's on-boarding. To correct: As long as the Form I-9 documentation presented was acceptable under the Form I-9 rules that were current at the time of hire, the employer may correct the error by stapling the outdated completed form to a blank current version, and signing the current blank version noting why the current blank version is attached (e.g., wrong edition was used at time of hire). As an alternative, the employer may draft an explanation and attach it to the outdated completed Form I-9 explaining that the wrong form was filled out correctly and in good faith.
- ◆ Your internal audit reveals a current employee made an error in Section 1: the employee makes the correction by following this procedure exactly: draw a single line through the error, write the correct information right beside that, and write their initials and current date in the margin closest to the corrected error.
- ◆ Your internal audit reveals you left part of Section 2 incomplete: you make the correction by following this procedure exactly: fill in the missing information, and initial and date in the margin closest to the new information provided.
- ◆ Your internal audit reveals a former employee omitted their birth date in Section 1: you cannot go back to the former employee to have them correct this. Compose a brief memo of your discovery, note that it remains uncorrected as the individual is no longer in your employ, date and sign with the current date and affix it to the existing I-9.

We have covered a lot of ground in this article, and you may still have questions or concerns. We are planning to follow up, but until then, email your questions to icaa@insulate.org.

## **ICAA** Webinar with HomeBoost

TCAA hosted a 20-minute webinar on March 12 highlighting its new alliance with HomeBoost, whose first product, the DIY-friendly BoostBox, uses AI and computer vision overseen by certified home energy auditors to identify problem areas, focusing on residential building envelopes. After a quick 30-minute (or less) assessment, homeowners receive a personalized roadmap showing exactly where they can save energy, and which upgrades offer the best return on investment. The result? Informed consumers eager to take the next step toward improving their home's efficiency.

HomeBoost's approach is to bridge the gap between DIY energy assessments and professional solutions, helping more homeowners take the next step toward a better, more efficient home, by recommending ICAA Qualified Home Retrofit Contractors.

We invite all ICAA members to explore how HomeBoost can help generate qualified leads, streamline the customer journey, and drive measurable results. With energy bills soaring and homeowners hungry for answers, there has never been a better time to join forces.

ICAA Members can watch the short webinar at www.insulate.org/icaahomeboost - and if you haven't already, apply now to become an **ICAA Qualified Home Retrofit Contractor**. Members can register for this ICAA Professional Designation by completing the application on the ICAA Member Site.







**Ginny Cameron** 

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Renee Wilson

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