



PROFESSIONAL. PROUD.

Avoid Penalties and Headache By Knowing Your Employment Verification Responsibilities

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PLEASE SILENCE ALL CELL PHONES AND PAGERS AT THIS TIME. THANK YOU.

Current Employment Verification Issues

Purpose of the Form I-9

By the end of the third day of an employee's work for you, you and s/he must complete a Form I-9 that (1) identifies the worker as being who s/he says s/he is, and that (2) s/he is work eligible in the United States.

Overview of your responsibilities as an employer

1. Complete a Form I-9 for every new employee you hire after November 6, 1986
[NOTE: Use the new Form I-9 that became effective in December, 2007]
2. Ensure that your employees fill out Section 1 of the Form I-9 when they start to work
3. Review document(s) establishing each employee's identity and eligibility to work
4. Properly complete Section 2 of the Form I-9
5. Retain the Form I-9 for 3 years after the date the person begins work or 1 year after the person's employment is terminated, whichever is later
6. Upon request, provide Forms I-9 to authorized officers of the Department of Homeland Security (DHS), the U.S. Department of Labor (DOL), or the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) for inspection.

You DO NOT need to complete a Form I-9 for persons who are:

- Hired before November 7, 1986, who are continuing in their employment and have a reasonable expectation of employment at all times;
- Employed for casual domestic work in a private home on a sporadic, irregular, or intermittent basis;
- Independent contractors; or
- Providing labor to you who are employed by a contractor providing contract services (e.g., employee leasing or temporary agencies).

NOTE: You cannot contract for the labor of an alien if you know the alien is not authorized to work in the United States.

Missing or materially incorrect I-9s – what you should do

1. Audit your I-9 files
2. Identify missing or materially incorrect I-9s regarding current employees
3. Immediately work with appropriate employees to complete new I-9s
 - a. Complete new forms; do not merely change existing forms
 - b. Retain old, incorrect form with new form
4. Draft an explanatory memo to the file

On [DATE] the [Company Name] undertook a voluntary self-audit of its I-9 Forms and discovered that there were no forms for certain of its current employees and that some forms contained material errors or omissions. Consequently, all employees in question completed new Form I-9s no later than [DATE]. The employees in question are: [List alphabetically]

Employee's Responsibility Regarding Form I-9

Completion date

- Have the employee complete Section 1 at the time of the hire (when s/he begins to work) by filling in the correct information and signing and dating the form.
- Ensure that the employee prints the information clearly.
- If the employee cannot complete Section 1 without assistance or if s/he needs the Form I-9 translated, someone may assist him/her.
 - The preparer or translator must read the form to the employee, assist him/her in completing Section 1, and have the employee sign or mark the form in the appropriate place.
 - The preparer or translator must complete the Preparer/Translator Certification block on the Form I-9.

NOTE: You are responsible for reviewing and ensuring that your employee fully and properly completes Section 1.

Social Security Number

Employee must provide you their Social Security Number (although not necessarily a Social Security Card) if you are a participant of the E-Verify Program.

The United States Citizenship and Immigration Service (USCIS) operates an electronic employment eligibility verification system called E-Verify. E-Verify provides an automated link to federal databases to help employers determine the employment eligibility of new hires.

E-Verify is free to employers and is available in all 50 states, as well as U.S. territories except for American Samoa and the Commonwealth of the Northern Mariana Islands.

Employers who participate in the E-Verify Program complete the Employment Eligibility Verification Form (Form I-9) for each newly hired employee as is required of all employers in the United States.

E-Verify employers may accept any document or combination of documents acceptable on the Form I-9, but if the employee chooses to present a List B and C combination, the List B (identity only) document must have a photograph.

After completing the Form I-9 for a new employee, E-Verify employers must submit an electronic query that includes information from Sections 1 and 2 of the Form I-9. After submitting the query, the employer will receive an automated response from the E-Verify system regarding the employment eligibility of the individual.

Employers can register online for E-Verify at <https://www.vis-dhs.com/EmployerRegistration>

Attestation of immigration status in Section 1

I attest, under penalty of perjury, that I am (check one of the following):

- A citizen or national of the United States
- A lawful permanent resident (Alien #) A _____
- An alien authorized to work until _____
(Alien # or Admission #) _____

You must reverify employee's status on or before the expiration date of employee's authorization.

Employer's Responsibility Regarding Form I-9 Section 2

<p>Section 2. Employer Review and Verification. To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s).</p>				
List A	OR	List B	AND	List C
Document title: _____		_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____
<p>CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) _____ and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)</p>				
Signature of Employer or Authorized Representative		Print Name		Title
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)				Date (month/day/year)

The employee must present to you an *original* document or documents that establish identity and employment eligibility within 3 business days of the date employment begins.

Acceptable documents

- Some documents establish both identity and employment eligibility (List A).
- Some documents establish identity only (List B).
- Some documents establish employment authorization only (List C).

The employee can choose which document(s) he or she wants to present from the List of Acceptable Documents.

Examine the original document or documents the employee presents and then fully complete Section 2 of the Form I-9. You may not specify which document(s) an employee must present.

Photocopying verification documents

DO NOT PHOTOCOPY THE DOCUMENTS PRESENTED AS PART OF THE VERIFICATION PROCESS!

You may but are not required to photocopy the documents presented. If you do photocopy the documents you must keep them with the I-9 but cannot use them for any purpose other than verification. Even if you photocopy the documents you must still completely fill out Section 2. (Cannot photocopy, staple the copies to the I-9, and write, "See attached.") Therefore, *by photocopying you are putting into your files documents that Immigration Customs Enforcement can later challenge.*

After Form I-9 Is Completed – Do's and Don'ts

- Do not file the I-9 forms with the U.S. government.
- Do maintain I-9 records in your own files for 3 years after the date of hire or 1 year after the date the employee's employment is terminated, whichever is later.

NOTE: You may retain the I-9 either in the employee's personnel file; however, it is a best practice to keep these forms in a separate, stand-alone file.

No-Match Letters

A Social Security "no-match letter" is a notice sent by the Social Security Administration (SSA) to employers and employees to inform them that the employee name or Social Security number listed on an employee's W-2 does not match the SSA records.

A Social Security "no-match letter" is NOT a notice of wrong-doing. There are many ordinary reasons why a no-match discrepancy may occur, e.g., misspelled names, transposed numbers, unreported name changes, clerical errors, etc. The no-match letter is not a notice that the employer should threaten or take any adverse action against an employee listed in a no-match letter.

SUGGESTION: If you receive a no-match letter it is suggested that you:

- Take reasonable steps to resolve the No-Match
- Apply these steps uniformly to all employees listed in the SSA letter
- Promptly (no later than 30 days) check to ensure was not the result of an error on the part of the employer
- If this does not resolve the problem, ask the employee to confirm the accuracy of the employer's records
- If necessary, the employer should ask the employee to resolve the issue with SSA
- Inform employee s/he has 90 days from the date the employer received the No-Match letter to resolve the matter with SSA
- If none of the foregoing measures resolves the matter within 90 days of receipt of the No-Match letter, the employer should:
 - Complete, within three days, a new I-9 Form as if the employee in question were newly hired, except that no document may be used to verify the employee's authorization for work that uses the questionable Social Security number.
 - Additionally, the employee must present a document that contains a photograph in order to establish identity or both identity and employment authorization.
- If the employer cannot confirm that the employee is authorized to work (by following the above procedures), the employer risks liability for violating the law by knowingly continuing to hire unauthorized workers.

Instructions

Please read all instructions carefully before completing this form.

Anti-Discrimination Notice. It is illegal to discriminate against any individual (other than an alien not authorized to work in the U.S.) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents presented have a future expiration date may also constitute illegal discrimination.

What Is the Purpose of This Form?

The purpose of this form is to document that each new employee (both citizen and non-citizen) hired after November 6, 1986 is authorized to work in the United States.

When Should the Form I-9 Be Used?

All employees, citizens and noncitizens, hired after November 6, 1986 and working in the United States must complete a Form I-9.

Filling Out the Form I-9

Section 1, Employee: This part of the form must be completed at the time of hire, which is the actual beginning of employment. Providing the Social Security number is voluntary, except for employees hired by employers participating in the USCIS Electronic Employment Eligibility Verification Program (E-Verify). **The employer is responsible for ensuring that Section 1 is timely and properly completed.**

Preparer/Translator Certification. The Preparer/Translator Certification must be completed if **Section 1** is prepared by a person other than the employee. A preparer/translator may be used only when the employee is unable to complete **Section 1** on his/her own. However, the employee must still sign **Section 1** personally.

Section 2, Employer: For the purpose of completing this form, the term "employer" means all employers including those recruiters and referrers for a fee who are agricultural associations, agricultural employers or farm labor contractors. Employers must complete **Section 2** by examining evidence of identity and employment eligibility within three (3) business days of the date employment begins. If employees are authorized to work, but are unable to present the required

document(s) within three business days, they must present a receipt for the application of the document(s) within three business days and the actual document(s) within ninety (90) days. However, if employers hire individuals for a duration of less than three business days, **Section 2** must be completed at the time employment begins. **Employers must record:**

1. Document title;
2. Issuing authority;
3. Document number;
4. Expiration date, if any; and
5. The date employment begins.

Employers must sign and date the certification. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. These photocopies may only be used for the verification process and must be retained with the Form I-9. **However, employers are still responsible for completing and retaining the Form I-9.**

Section 3, Updating and Reverification: Employers must complete **Section 3** when updating and/or reverifying the Form I-9. Employers must reverify employment eligibility of their employees on or before the expiration date recorded in **Section 1**. Employers **CANNOT** specify which document(s) they will accept from an employee.

- A. If an employee's name has changed at the time this form is being updated/reverified, complete Block A.
- B. If an employee is rehired within three (3) years of the date this form was originally completed and the employee is still eligible to be employed on the same basis as previously indicated on this form (updating), complete Block B and the signature block.
- C. If an employee is rehired within three (3) years of the date this form was originally completed and the employee's work authorization has expired **or** if a current employee's work authorization is about to expire (reverification), complete Block B and:
 1. Examine any document that reflects that the employee is authorized to work in the U.S. (see List A or C);
 2. Record the document title, document number and expiration date (if any) in Block C, and
 3. Complete the signature block.

What Is the Filing Fee?

There is no associated filing fee for completing the Form I-9. This form is not filed with USCIS or any government agency. The Form I-9 must be retained by the employer and made available for inspection by U.S. Government officials as specified in the Privacy Act Notice below.

USCIS Forms and Information

To order USCIS forms, call our toll-free number at 1-800-870-3676. Individuals can also get USCIS forms and information on immigration laws, regulations and procedures by telephoning our National Customer Service Center at 1-800-375-5283 or visiting our internet website at www.uscis.gov.

Photocopying and Retaining the Form I-9

A blank Form I-9 may be reproduced, provided both sides are copied. The Instructions must be available to all employees completing this form. Employers must retain completed Forms I-9 for three (3) years after the date of hire or one (1) year after the date employment ends, whichever is later.

The Form I-9 may be signed and retained electronically, as authorized in Department of Homeland Security regulations at 8 CFR § 274a.2.

Privacy Act Notice

The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 USC 1324a).

This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States.

This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by officials of U.S. Immigration and Customs Enforcement, Department of Labor and Office of Special Counsel for Immigration Related Unfair Employment Practices.

Submission of the information required in this form is voluntary. However, an individual may not begin employment unless this form is completed, since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.

Paperwork Reduction Act

We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: 1) learning about this form, and completing the form, 9 minutes; 2) assembling and filing (recordkeeping) the form, 3 minutes, for an average of 12 minutes per response. If you have comments regarding the accuracy of this burden estimate, or suggestions for making this form simpler, you can write to: U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529. OMB No. 1615-0047.

Please read instructions carefully before completing this form. The instructions must be available during completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification. To be completed and signed by employee at the time employment begins.

Print Name: Last	First	Middle Initial	Maiden Name
Address (Street Name and Number)		Apt. #	Date of Birth (month/day/year)
City	State	Zip Code	Social Security #

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):

A citizen or national of the United States

A lawful permanent resident (Alien #) A _____

An alien authorized to work until _____

(Alien # or Admission #) _____

Employee's Signature	Date (month/day/year)
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Preparer and/or Translator Certification. (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature	Print Name
Address (Street Name and Number, City, State, Zip Code)	
Date (month/day/year)	

Section 2. Employer Review and Verification. To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s).

List A	OR	List B	AND	List C
Document title: _____		_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____

CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) _____ and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)		Date (month/day/year)

Section 3. Updating and Reverification. To be completed and signed by employer.

A. New Name (if applicable)	B. Date of Rehire (month/day/year) (if applicable)
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C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.

Document Title: _____	Document #: _____	Expiration Date (if any): _____
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I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative	Date (month/day/year)
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LISTS OF ACCEPTABLE DOCUMENTS

LIST A Documents that Establish Both Identity and Employment Eligibility	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Eligibility
1. U.S. Passport (unexpired or expired)		1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address		1. U.S. Social Security card issued by the Social Security Administration (other than a card stating it is not valid for employment)
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address		2. Certification of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350)
3. An unexpired foreign passport with a temporary I-551 stamp		3. School ID card with a photograph		3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
4. An unexpired Employment Authorization Document that contains a photograph (Form I-766, I-688, I-688A, I-688B)		4. Voter's registration card		4. Native American tribal document
		5. U.S. Military card or draft record		5. U.S. Citizen ID Card (Form I-197)
5. An unexpired foreign passport with an unexpired Arrival-Departure Record, Form I-94, bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, if that status authorizes the alien to work for the employer		6. Military dependent's ID card		6. ID Card for use of Resident Citizen in the United States (Form I-179)
		7. U.S. Coast Guard Merchant Mariner Card		
		8. Native American tribal document		7. Unexpired employment authorization document issued by DHS (other than those listed under List A)
		For persons under age 18 who are unable to present a document listed above:		
		10. School record or report card		
		11. Clinic, doctor or hospital record		
		12. Day-care or nursery school record		

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)



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