



New I-9 Form!

A new [I-9 form](#) and [Employer Handbook](#) was issued on July 17 and employers must begin using this revised form no later than September 18, 2017. The newly issued form provides us an opportunity to remind employers about their obligations under the Immigration Reform & Control Act of 1986 (IRCA).

Employment Authorization & Non-Discrimination

Employers are not permitted to hire or to continue employing individuals they know are not authorized to work in the United States. Additionally, employers are required to verify employment eligibility of all new hires using Form I-9. Although it may appear that this could lead to discriminatory practices by employers, the IRCA specifically prohibits discrimination based on national origin, citizenship, and immigration status.

I-9 Requirements

All employers, even if they have just 1 employee, are obligated to complete and maintain Form I-9 for all individuals hired after November 6, 1986. The only exceptions to this requirement are for independent contractors, individuals working outside of the U.S., and those employed in domestic service in a private household.

Individuals who are legally permitted to work in the U.S. include:

- U.S. Citizens;
- Non-citizen Nationals of the U.S.;
- Lawful Permanent Residents; and
- Aliens Authorized to Work

Form I-9 must be completed within a specific timeframes:

- Section 1 – The employee must complete by the end of the first day of work.
- Section 2 – The employer must complete by the end of the third business day after the employee begins work. The employer must review the original

documents presented that verify identify and work eligibility. Copies and, in general, receipts are not acceptable documents that may be used when completing Section 2. Information about the [receipt rule](#) can be viewed on the US Citizenship & Immigration (USCIS) [website](#).

- Section 3 – Reverification of Form I-9 must be completed before an individual’s work authorization document expires.

It’s important for employers to understand that they are not permitted to tell an individual what documents to present for I-9 purposes. The employee must choose to present one document from List A or one document each from List B and List C.

Retaining the I-9

Form I-9 must be kept for duration of employment + 1 year or 3 years, whichever is later. The USCIS provides a [chart](#) to help employers determine whether or not they have retained Form I-9 for the appropriate time period:

To calculate how long to keep an employee’s Form I-9, enter the following:

1. Date the employee began work for pay	1. _____
A. Add 3 years to the date on line 1.	A. _____
2. The date employment was terminated	2. _____
B. Add 1 year to the date on line 2.	B. _____
3. Which date is later; A or B?	3. _____
C. Enter the later date.	C. _____

The employer must retain Form I-9 until the date on Line C.

Penalties

The [penalties](#) for not properly completing and retaining Form I-9 can be quite costly.

- Maximum fine for Form I-9 violations: \$2,156 per violation (Additional fines for second and third violations)
- Maximum fine for unlawful employment of unauthorized workers: \$4,313 per worker
- Maximum penalty for unfair immigration-related practices: \$3,563 per charge. (Repeat offenders face a maximum penalty of \$21,563.)

In addition to civil fines, employers also can face:

- Criminal penalties (when there is a pattern or practice of violations)
- Debarment from government contracts
- A court order requiring the payment of back pay to the individual discriminated against
- A court order requiring the employer to hire the individual discriminated against

It's highly recommended that employers review their I-9 protocols and [audit](#) their current I-9 forms to minimize liability. Information is available on the USCIS about [making corrections](#) to Form I-9.

Contributed by the Employers Association Forum, Inc. (EAF). EAF is a non-profit corporate membership-based association dedicated to serving the business and HR communities with world-class HR tools, hotlines & legal compliance, news & trends, surveys & economic data, benefits & insurance, risk management, training & consulting, and leadership & organizational development. Our members receive discounted rates on all [EAF classroom training](#) at EAF's training center in Longwood. [Click here](#) to learn more about EAF membership benefits.