

Highlights

- Employers must verify the identity and employment authorization of every individual they hire by completing and retaining a Form I-9.
- Section 1 must be completed by the newly hired employee no later than their first day of employment for pay.
- Section 2 must be completed by the employer or their authorized representative within three business days of the employee's first day of employment for pay.

Completing Form I-9

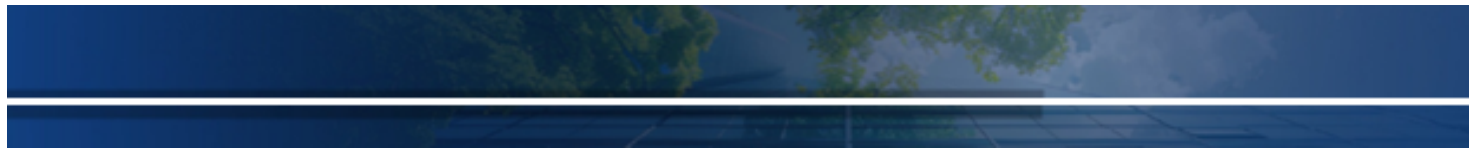
Federal law requires employers to hire only individuals who may legally work in the United States—either U.S. citizens or authorized foreign nationals. To comply with the law, employers must verify the identity and employment authorization of each individual they hire by completing and retaining the Employment Eligibility Verification form (Form I-9). Employers must have a completed Form I-9 for every employee hired after Nov. 6, 1986.

Recently, the federal government has greatly increased workplace immigration-related investigations, exposing more employers to fines and penalties for Form I-9 violations. Therefore, it's important that employers understand how to properly complete and retain Forms I-9.

This Compliance Overview provides employers with a broad overview to help them understand and meet their Form I-9 obligations.

Links and Resources

- USCIS' [I-9 Central website](#)
- USCIS' [Handbook for Employers M-274](#)



Form I-9 Overview

The Immigration Reform and Control Act (IRCA) requires employers, regardless of size, to hire and retain only individuals authorized to work in the United States and imposes strict penalties on those who knowingly employ individuals lacking permanent legal status. To enforce these guidelines, the IRCA requires employers to verify a newly hired employee's eligibility to work in the United States by completing Form I-9. By completing this form, employers certify that they have inspected documents verifying that a newly hired employee is authorized to live and work in the United States.

To comply with the law, employers must verify the identity and employment authorization of each person they hire, complete and retain a Form I-9 for each employee, and refrain from discrimination against individuals on the basis of national origin, citizenship or immigration status. Employers may not hire an individual who they know is not authorized to work in the United States.

Employers do not need to complete Form I-9 for employees who are:

- Hired on or before Nov. 6, 1986 (or on or before Nov. 27, 2009, in the Commonwealth of the Northern Mariana Islands), 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;
- Employed by a contractor providing contract services (such as employee leasing or temporary agencies) and are providing labor to the employer; or
- Not physically working in the United States or its territories.

This list is not exhaustive, and specific state or local laws may impact these requirements. Employers should consult with legal counsel to ensure compliance with all laws and requirements.

Completing Form I-9

All employers must complete and retain Form I-9 for every person hired for employment in the United States after Nov. 6, 1986, as long as the person works for pay or other type of payment. Employers must make the Form I-9 instructions and List of Acceptable Documents available to their employees. All employees must provide original documents that verify their right to live and work in the United States for physical examination and sign a verification form (Form I-9). If an employee cannot verify their right to work within three business days of their first day of work for pay, the employer must not permit that individual to work and can terminate the individual's employment or place them on unpaid leave. Employers may also be required to reverify an employee's employment eligibility under certain circumstances. Employers are permitted to retain and sign Forms I-9 electronically. Additionally, the U.S. Department of Homeland Security's (DHS) E-Verify system allows participating employers to electronically verify the employment eligibility of new hires.

Form I-9 has two sections. The first is completed by the employee, and the second is completed by the employer. There are two supplements that are completed only when a preparer or translator assists an employee in completing Section 1 (Supplement A) or when rehire, reverification or name changes apply (Supplement B). The earliest an employer can ask a new hire to complete Section 1 of Form I-9 is after an offer of employment is extended and accepted. Employers cannot use Form I-9 as part of an applicant's screening process or background check. The latest a new hire can complete Section 1 is at the end of the employee's first day of work for pay. If an employee's employment is set to last fewer than three



business days, Sections 1 and 2 must be completed before the employee's first day of work for pay. Employers can hire an outside business or contractor to verify a newly hired employee's identity and employment eligibility, but the employer is ultimately responsible for the business's or contractor's actions and the employee's employment eligibility.

The DHS occasionally revises Form I-9. The most current edition is dated "01/20/25" and has an expiration date of "05/31/2027." However, employers may also use previous unexpired editions, including:

- Form I-9 with an "08/01/23" edition date, valid until its expiration date of "07/31/2026"; and
- Form I-9 with an "08/01/23" edition date, valid until its expiration date of "05/31/2027."

Employers may use multiple previous editions of Form I-9 until their respective expiration dates. However, the U.S. Citizenship and Immigration Services' (USCIS) website will only include the most recent Form I-9 for downloading. Employers are encouraged to use the form with the "05/31/2027" expiration date as soon as possible, but no later than July 31, 2026. Employers can find the most current Form I-9 on the USCIS' [website](#). Employers who fail to use an unexpired version of the form may be subject to all applicable penalties under the IRCA.

Only employers and employees in Puerto Rico can complete the [Spanish-language version of Form I-9](#). Spanish-speaking employers and employees outside Puerto Rico must complete the form in English to meet employment eligibility verification requirements, but they may use the Spanish-language version for reference.

Section 1: Employee Information and Attestation

Section 1 must be completed by the newly hired employee. They provide certain personal information, such as their name, address, date of birth and contact information. Under penalty of perjury, the employee also selects whether they are a U.S. citizen, noncitizen, lawful permanent resident or "alien" authorized to work, as termed by the USCIS. A preparer or translator may help a newly hired employee complete this section, but they must complete the certification box in Supplement A.

Newly hired employees must complete and sign Section 1 no later than their first day of employment. Employers may have an employee complete Section 1 on the first day of employment or before the first day of work if they have offered the individual a job and the prospective employee has accepted it.

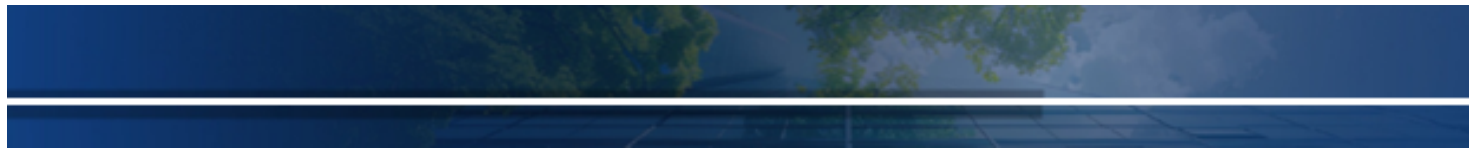
Employees must provide original, unexpired documents from the [List of Acceptable Documents](#) approved by the USCIS that verify their identity and employability. Employers may accept documents only from Lists A, B and C. Documents from List A establish identity and employment eligibility, documents from List B establish identity only and documents from List C establish employment eligibility only. Employers must accept either one document from List A or a combination of one document from List B and one document from List C.

Employers are responsible for reviewing and ensuring that employees fully and properly complete Section 1. However, employers cannot dictate or request that employees provide specific documents from the List of Acceptable Documents. Penalties may apply for accepting or requesting documents that are not on these lists.

Employees may present receipts in lieu of certain documents for a temporary period, unless their employment will last less than three business days. New employees who choose to present a receipt must do so within three business days after their first day of employment. For reverification of existing employees, they must present a receipt by the date their employment authorization expires.

Section 2: Employer or Authorized Representative Review and Verification

Employers must complete and sign Section 2 within three business days after the employee's first day of work for pay. For example, if the employee started work for pay on Monday, the employer must complete Section 2 by Thursday of that



week. Employers complete this section using the information from the documents the employee presented to prove their identity and employment eligibility in the United States.

To complete Section 2, employers must verify specific documents listed in the form. Reviewing these documents allows an employer to verify their new employee's identity and employment eligibility. Employers must document their review and verification of these documents on the form. Employers, or their authorized representatives, must:

- Ensure that any document the employee presents is on the List of Acceptable Documents or is an acceptable receipt;
- Physically examine each document to determine if it reasonably appears to be genuine and to relate to the employee presenting it—if employers reject a document, they must allow the employee to present other documentation from the List of Acceptable Documents;
- Record the document title, issuing authority, number(s) and expiration date (if any) from the original document(s) the employee presented;
- Enter the date the employee began or will begin working for pay;
- Provide the name, signature and title of the person completing Section 2, as well as the date they completed Section 2;
- Record the employer's business name and address—if the employer has multiple locations, they can use the most appropriate address that identifies the location of the employer with respect to the employee and their completion of Form I-9 (e.g., the address where Form I-9 is completed); and
- Return the documentation presented to the employee.

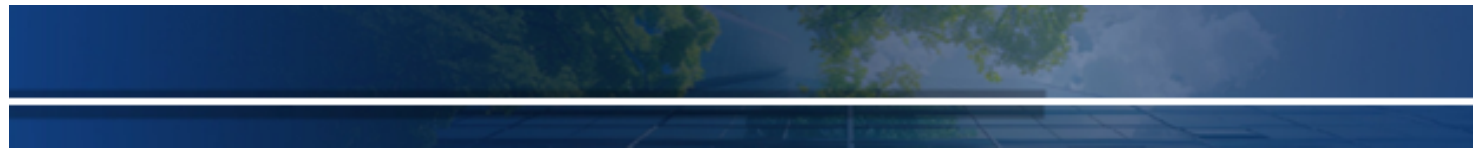
The person who physically examines the employee's documents must sign the attestation in Section 2 under the penalty of perjury.

In instances where an employee presents an acceptable receipt but later provides an original replacement document, employers should cross out the word "receipt" on the employee's Form I-9, then enter the information for the new documentation into the Additional Information field in Section 2, and initial and date the change.

Employers may use an authorized representative to complete Form I-9 verification for new hires working remotely. This can be any person designated, hired or contracted by the employer to complete, update or make corrections to Section 2 on their behalf, such as a personnel officer, agent, foreman, bank representative or notary public. If the employer authorizes a notary public as its representative, the notary public is acting as an authorized representative of the employer, not as a notary public. When acting as an authorized employer representative, the notary public should not provide a notary seal on Form I-9. The authorized representative must perform all the employer's duties, including reviewing the employee's Section 1 and completing Section 2. Employers are liable for any violations in connection with the form or verification process committed by the authorized representative acting on the employer's behalf.

Employers may terminate any employee who cannot present the necessary documents within three business days of hire or place them on an unpaid leave of absence. If an employer chooses to place an employee on an unpaid leave of absence, the employer can terminate the employee if they are unable to produce identity and employability documents at the end of their leave.

Since Aug. 1, 2023, employers in good standing enrolled in the federal E-Verify program with respect to all hiring sites may use an alternative procedure to remotely examine Form I-9 documents through live video interaction.



Supplement B: Reverification and Rehires

When an employee's employment authorization has expired, employers must complete Supplement B (formerly Section 3). Employers also use Supplement B for rehired employees if the rehire occurred within three years of when Form I-9 was initially completed, and the employer still has the previously completed form.

In some situations, reverification is not required or subject to special rules regarding the following:

- **Identity, citizenship and residency documents**—Reverification is not required for identity documents, U.S. citizenship documents and permanent residency cards. Moreover, employers do not need to reverify U.S. passports, "alien" registration or permanent resident cards, whether valid or expired. U.S. citizens and lawful permanent residents are permanently authorized to work in the United States. Accordingly, employers do not need to reverify their documents;
- **Foreign workers with temporary work authorization**—Foreign workers whose work authorization is temporary must be reverified on or before the expiration date of their work authorization document. If employers fail to reverify a worker, the employee cannot continue to work and may be terminated or placed on a leave of absence;
- **Employee name changes**—If an employee changes their name, employers must record the employee's name change on the new work authorization document during the reverification process. However, if an employee changes their name for personal reasons—such as marriage—employers are not required to update the employee's Form I-9, but may do so; and
- **Federal contractors**—Federal contractors subject to the Federal Acquisition Regulation (FAR) E-Verify clause have special rules regarding when they must complete new Forms I-9 for existing employees. If a federal contractor subject to the FAR E-Verify clause chooses to verify existing employees by updating existing Forms I-9, they must submit a new Form I-9 when an employee changes their name.

Reverifying Employment Authorization for Current Employees

Employers must reverify an employee's work authorization document if it has an expiration date. Employers do this by examining a new work authorization document and completing Supplement B no later than the date the employee's employment authorization expires. The employee must present a document that shows their current employment authorization, such as any List A or C documentation, including an unrestricted Social Security card. Employers must reject a restricted Social Security card. Employers can also accept certain receipts for reverification, as outlined in the List of Acceptable Documents.

For current employees whose work authorization is about to expire, employers must complete one block of Supplement B, examine a document from List A or C that verifies the employee's authorization to work in the United States, and attach the completed supplement to the employee's original Form I-9. Employers may use additional blocks on the supplement for subsequent reverifications or updates. If the employee's previous update or reverification was completed on a version of Form I-9 that's no longer valid, employers must complete Supplement B and attach it to the employee's original Form I-9.

To reverify an employee using Supplement B, employers should:

- Enter the employee's full name from the original Form I-9 at the top of the supplement.
- Enter the employee's new name in the appropriate New Names fields in one block of the supplement if their name has changed. Enter only the part of the name that has changed. For example, if the employee only changed their last name, enter the last name in the Last Name field and leave the First Name and Middle Initial fields blank.
- Enter the document title, number and expiration date in that block of the supplement.

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- Sign, date and enter the name of the employer or authorized representative who completed the reverification in the appropriate fields of that block.
 - Attach the supplement to the employee's original Form I-9.

Reverifying or Updating Employment Authorization for Rehired Employees

If an employer rehires an employee within three years from the date of the previously completed Form I-9, the employer may complete a block on Supplement B or complete a new Form I-9. If the employer chooses to complete Supplement B for a rehired employee, they should do the following:

- Enter the employee's new name, if applicable;
- Enter the employee's date of rehire, if applicable;
- Enter the List A or C document title, number and expiration date (if any); and
- Sign and date the completed block of the supplement.

If the employee is still authorized to work in the United States, they do not need to provide any additional documents. For these employees, the employer must:

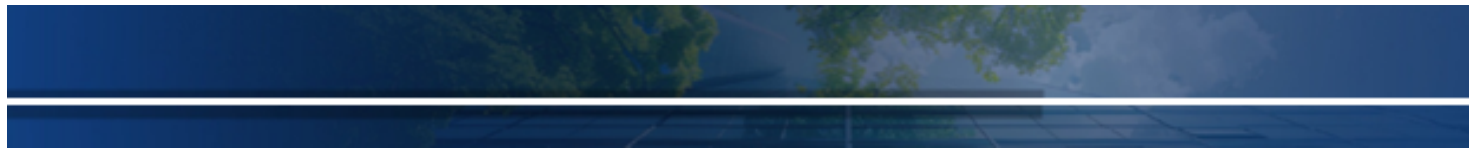
- Enter the employee's full name from the original Form I-9 at the top of the supplement;
- Enter any name change in the New Name fields. Enter only the part of the name that has changed. For example, if the employee only changed their last name, enter the last name in the Last Name field and leave the First Name and Middle Initial fields blank;
- Enter the rehire date in the Date of Rehire field; and
- Sign, date and enter the name of the employer or authorized representative who completed the reverification in the appropriate fields of that block.

If the employee's employment authorization has expired, the employer must:

- Enter the employee's full name from the original Form I-9 at the top of the supplement;
- Enter any name change in the New Name fields;
- Enter the rehire date in the Date of Rehire field;
- Reverify the employee's employment authorization in the Expiration Date fields; and
- Sign, date and enter the name of the employer or authorized representative who completed the reverification in the appropriate fields of that block.

If the previous Form I-9 is an older version of the form, the employer must complete a new block in Supplement B on the current version of the form. If the employer already used a block in Supplement B of the employee's previous Form I-9 but is rehiring the employee within three years of the date the original Form I-9 was completed, the employer should complete a subsequent block of the supplement. Employees rehired three years after they originally completed Form I-9 must complete a new form.

If an employer must reverify the employment authorization of an existing employee who completed an earlier version of Form I-9, the employee may choose any List A or C documents from the List of Acceptable Documents for the most current version of Form I-9.



Recording Name Changes and Other Identity Information for Current Employees

During reverification or rehire, if an employee has had a legal name change, the employer must enter the employee's new legal name in the New Name fields of a block of Supplement B, as described above. If an employee legally changes their name at any other time, the USCIS recommends that employers update the New Name fields in a subsequent block on the original supplement page or a new supplement page, as needed, as soon as the employer learns of the change.

To enter a legal name change in Supplement B without reverification or rehire, an employer should:

- Enter the employee's new name in the New Name fields; and
- Sign, date and enter the name of the employer or authorized representative who completed the reverification in the appropriate fields of that block.

Employers should ensure the employee's name change is accurate. This may include asking the employee to provide legal documentation showing the name change, such as a marriage certificate. Employers may make a copy of that document and keep it with Form I-9 in the event of an inspection.

Employers may encounter situations where an employee's legal name is different than the identity they used to complete their Form I-9. For example, an employee may have worked under a false identity and has subsequently obtained work authorization in their true identity. In this situation, employers should complete a new Form I-9, entering the original hire date in Section 2, and attach the new Form I-9 to the previously completed form, along with a written explanation. Form I-9 rules do not require an employer to terminate an employee who has worked using a false identity but has demonstrated current authorization to work in the United States. Additionally, there may be other laws, contractual obligations and company policies employers should consider before taking action.

Record Retention and Storage

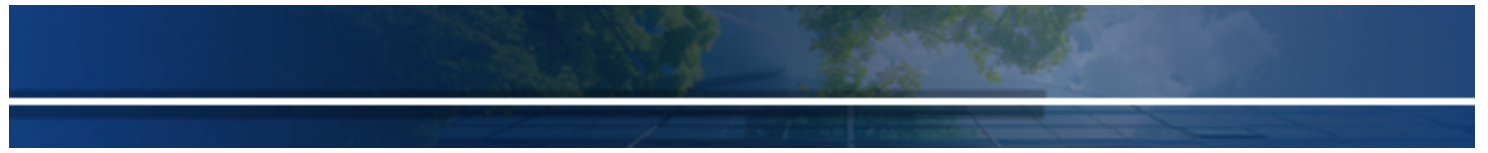
Employers must retain an employee's completed Form I-9 for as long as the employee works for the employer, regardless of citizenship or nationality. Once an individual's employment has terminated, the employer must retain the former employee's completed Form I-9 on file for at least three years after the date of hire or one year after the date of termination, whichever is later. Once the retention period for an employee's Form I-9 has passed, employers may destroy the form and any photocopies of the employee's identity and employability documents. Shredding is an acceptable way of destroying these documents. Purging a former employee's Form I-9 too early, however, is treated as if the employee's form is missing.

Employers do not need to file completed Forms I-9 with any federal agency. Employers can store completed Forms I-9 and any copies of documents in a manner that meets their business needs and facilitates compliance with the requirement to make Forms I-9 available for inspection. The USCIS recommends employers keep these files separate from employee personnel files. If an authorized officer from the DHS or employees of the U.S. Department of Labor or the Immigrant and Employee Rights Section of the Department of Justice request copies of the forms for any reason, employers must have the original forms available on-site within three days of the request.

Federal law permits employers to retain Forms I-9 on paper, microfilm, microfiche or electronically. Employers may also store Forms I-9 on-site or at an off-site storage facility and in a single format or a combination of formats.

Employer Takeaway

Form I-9 requirements impact all employers. As enforcement actions continue to escalate, Form I-9 compliance is especially vital. Employers should regularly review their policies and procedures for completing, maintaining and retaining Forms I-9 and scrutinize their completed forms for accuracy. Strategies for implementing an effective Form I-9 process



will likely vary depending on the employer's size and the location of its employees, but an effective process can help reduce potential legal exposure.