

I-9 New Employees FAQ

Form I-9: New Employees

The Form I-9, Employment Eligibility Verification, is used to verify the identity and employment authorization of employees. Employers must ensure each employee completes a Form I-9 in a timely manner. When completing the form, an employee must attest to his or her employment authorization and present the employer with specific documents evidencing identity and employment authorization. The last page of Form I-9 has a list of the documents an employer may accept and once received, employers are to review these documents to determine if they are reasonably genuine. Importantly, an employer's request for more or different documentation than the minimum necessary to meet Form I-9 requirements may be an unfair immigration-related employment practice (UIREP).

Employers are not required to obtain or complete a Form I-9 for:

- Employees hired on or before November 6, 1986, who are continuing in their employment, and have a reasonable expectation of employment at all times.
- Casual, domestic employees in a private home working on a sporadic, irregular, or intermittent basis.
- Independent contractors.
- Those otherwise employed by a contractor providing contract services (such as employee leasing or temporary agencies) and providing labor.
- Employees not physically working on U.S. soil.
- Job applicants are not required to complete a Form I-9.

Employee's Responsibility

New employees must complete Section 1 of a Form I-9 at the time of hire, but no later than the close of business on the first day of employment. The employee is held responsible for the accuracy of the information provided via signature.

Someone may assist the employee if the employee cannot complete Section 1 without assistance or if the employee needs the Form I-9 translated. The preparer or translator must read the form to the employee, assist the employee in completing Section 1, and have the employee sign or mark the form in the appropriate place. The preparer or translator must then complete the Preparer/Translator Certification block on the Form I-9. The employee must be given Form I-9 by the employer and asked to provide either one original document on List A or one original document on each of Lists B and C within three **business** days of the date employment began. The employee may select which documents he or she wants to present from the List of Acceptable Documents. **Note:** There is no filing fee associated with the Form I-9.

Employer's Responsibility

Employers may not knowingly employ workers who are unauthorized to work in the United States. Additionally, employers are responsible for ensuring the completion of the entire Form I-9, including ensuring that the employee completes Section 1 in full when the employee begins to work. The employer should immediately examine all documents establishing each employee's identity and eligibility to work. Employers must accept any document(s) (from the List of Acceptable Documents) presented by the individual, which reasonably appear on their face to be genuine and to relate to the person presenting them. Employers **may not** specify which document(s) an employee must present. However, employers who participate in the USCIS E-Verify Program may only accept List B documents that have a photograph.

Employers may also require that employees make any necessary corrections to ensure proper completion of the form. Additionally, and pursuant to § 7 of the Privacy Act (8 U.S.C.A. § 552a), providing a Social Security number on the Form I-9 is voluntary for all employees unless the employer participates in the E-Verify Program, which requires an employee's Social Security number for employment eligibility verification.

The employer must complete Section 2 of the form no later than the close of business on the new employee's third day of employment. If an individual is hired for less than three business days, then Sections 1 and 2 of the Form I-9 must be fully completed at the time of the hire, by the first day of employment. To ensure consistency and accuracy, employers should review the information provided in Section 1 against the documents produced by the employee for Section 2. If there is a discrepancy between the two sections, the employee should be given an opportunity to make necessary corrections.

Employers are not required to make copies of the documents that are produced for Section 2. However, employers may attach photocopies of documentation submitted to satisfy Form I-9 requirements to the employee's Form I-9. This must be consistently applied to every employee, without regard to citizenship or national origin, should employers choose to make and attach photocopies.

Employee's Failure to Produce Documents

Employers should terminate an employee who fails to produce the required documents for employment within three business days of the date employment begins.

Receipts

In certain circumstances, employers must accept a receipt in lieu of a List A, List B, or a List C document if one is presented by an employee. Examples of receipts and other documents that serve as proof of temporary employment eligibility that employers can accept are the following:

- All employees may provide receipts for the application of a replacement document where the document was lost, stolen, or damaged, which can be a List A, List B, or List C document. The employee must present the actual document for which the receipt was issued within 90 days from the date of hire, or for reverification, within 90 days from the date employment authorization expires.
- Lawful permanent residents may provide the arrival portion of a Form I-94 or I-94A containing a temporary I-551 stamp and photograph as a receipt for a List A document. When the stamp expires, or if the stamp has no expiration, one year from date of issue the employee must present the actual Form I-551 (Permanent Resident Card, or green card).
- Refugees may provide the departure portion of Form I-94 or I-94A with an unexpired refugee admission stamp, as a receipt for a List A document. Within 90 days from the date of hire or for reverification, the employee must present an unexpired Employment Authorization Document (Form I-766), or combination of a valid List B document and an unrestricted Social Security card.

New employees who choose to present a receipt must do so within three business days of their first day of employment. Employees who present a receipt for reverification must present it by the date their employment authorization expires. A receipt indicating that an individual has applied for initial work authorization or for an extension of expiring work authorization is not acceptable proof of employment eligibility on the Form I-9. Additionally, receipts are never acceptable if employment lasts less than three business days.

For More Information

For more information on I-9 Documentation and Lists of Acceptable Documents, go to the U.S. Citizenship and Immigration Services website at www.uscis.gov.