CHECKLIST | Form I-9: Internal Audit

Presented by ToughComp

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.

Complying with Form I-9 requirements accurately and in a timely manner is difficult. The risk employers face for any errors is real and can be extremely expensive. Employers that fail to comply with Form I-9 requirements can face severe consequences, including civil and criminal penalties.

Despite employers' best efforts, compliance with Form I-9 requirements can be complex and is rarely foolproof. Though they can be time-consuming and labor-intensive, internal audits can be a systematic means for organizations to ensure compliance with federal law.

Overview

This checklist outlines the steps for conducting an internal audit of your organization's Forms I-9. This checklist is intended to be used as a guide, and not all of the following steps are necessary for an organization's internal audit. The audit process may differ based on your organization's size and other factors; thus, the steps in this list should be modified to meet the unique needs of your organization. This checklist is to be completed by someone trained in Form I-9 requirements, such as an HR representative, to help ensure a smooth audit process. It has been updated to reflect the most current Form I-9 (edition date Aug. 1, 2023).

This checklist provides an overview of a Form I-9 internal audit and should not be construed as legal advice. Due to the complex nature of Form I-9 compliance, employers are encouraged to seek legal counsel to discuss and address specific issues and concerns.

Preparing for the Internal Audit	
Obtain a copy of the U.S. Citizenship and Immigration Services' (USCIS) Handbook for Employers M-274 to reference, if necessary.	☐
Download the current version of Form I-9 from USCIS' website.	☐
Create a list of currently employed employees hired after Nov. 6, 1986.	☐
Create a list of all employees terminated in the past three years.	☐
Gather Forms I-9, either original or electronic, for all current employees and employees terminated in the past three years.	☐
Verify there is a completed Form I-9 for all current employees.	☐
Complete Form I-9 for any current employees who do have a completed form.	☐

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After gathering completed Forms I-9 and creating employee lists, employers can proceed with their internal audit by following the steps below. An internal audit may differ based on an organization's size and other factors. For smaller employers, it may be best to review every Form I-9. But for larger employers, this may not be practical. Accordingly, if larger employers decide not to review every Form I-9 and review only a sample of its forms instead, they need to ensure the criteria they use to select which forms will be audited are not discriminatory.

Reviewing Section 1 of Form I-9	
Ensure the employee's name—including past or present last names—address and date of birth are completed.	☐
Verify that the appropriate citizen or immigration status box is checked.	☐
If the employee is a lawful permanent resident, confirm the employee has provided their seven- to nine-digit Alien Registration Number or USCIS Number.	☐
If the employee lacks permanent legal status, verify the employee has provided an Alien Registration Number, USCIS Number, Form I-984 Admission Number or foreign passport number.	☐
Verify that the employee signed and dated Section 1 no later than the first day of their employment.	☐
If someone other than the employee completed Section 1, ensure Supplement A, Preparer and/or Translator Certification, for Section 1 is completed.	☐

Reviewing Section 2 of Form I-9	
Verify that the citizenship or immigration status number is consistent with the information the employee provided in Section 1.	☐
Ensure one document from List A or a combination of one document from List B and List C are listed in Section 2 and all information is recorded accurately.	☐
Check that all documents for Section 2 have been entered under the correct list.	☐
Confirm the employee's first date of employment is entered and accurate.	☐
Ensure the organization's representative has signed and printed their name and dated the form within three days of the employee's first day of employment.	☐
Confirm the organization's name and full address are recorded.	☐
Verify there are copies of the employee's documents if the organization retains photocopies of employee documents.	☐

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Reviewing Supplement B (Formerly Section 3) of Form I-9	
If the employee was rehired within three years of the date of the previously completed Form I-9, verify that a block in Supplement B is completed, along with the name of the organization's representative, signature and title who completed Supplement B.	☐
If the employee's work authorization has expired, verify that a block in Supplement B is completed, along with the name of the organization's representative, signature and title who completed Supplement B.	☐
Enter the employee's new name in a block of Supplement B if the employee's name has changed.	☐

Correcting Errors	
For any errors discovered in Section 1, ask the employee to correct the errors by drawing a line through the incorrect information, entering the correct information, and initialing and dating the correction.	☐
For any errors discovered in Section 2 and Supplement B, draw a line through the incorrect information, enter the correct information, and initial and date the correction.	☐
For forms with multiple errors, complete the section containing multiple errors on a new Form I-9 using the current version of the form. Attach the newly completed form to the original form and include a memo describing any changes and explaining why a new form was completed.	☐
For employees who do not have a completed Form I-9, ask the employee to complete Section 1, inspect the employee's identity and employability documents, and complete Section 2. Enter the employee's original date of hire and the date the form is completed.	☐
For employees who do not have a completed Form I-9 but are no longer employed, draft a memo for each employee missing a Form I-9 explaining why there is no completed form for those employees. Store these memos with the organization's Form I-9 files.	☐

Audit Log	
Document all errors and corrections made during the internal audit.	☐
Retain the audit log with the organization's Form I-9 files.	☐

Internal audits can be expensive, time-consuming and tedious for any organization. This is especially true for organizations with a high number of employees or organizations in industries with high turnover rates, such as restaurants. However, internal audits can be worth the time and effort; when done regularly, they

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can improve compliance with federal law, increase operational and administrative efficiency and save your organization time and money by helping to avoid government audits, fines and penalties.

For more information on Form I-9, contact ToughComp today.



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