

## CHECKLIST FOR FORMS I-9

While immigration is a hot political topic, employers will be subjected to audits of compliance with the requirements of the U.S. Citizenship and Immigration Services for employment eligibility verification through proper use and maintenance of Forms I-9.

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### Do you use the latest form?

- Check the USCIS website regularly
- Most current version: OMB No. 1615-0047; expires 10/31/2022

### Who is in charge?

- Have a Form I-9 procedure.
- Designate a person to be in charge ("PIC") of the Form I-9 procedure.
- The PIC must know the penalties for failure to comply with Form I-9 requirements.
- The PIC must be constantly vigilant. In a USCIS audit, employers are typically given three days to produce copies of the Forms I-9, but employers who are unprepared likely will find these three days insufficient to comply.

### Follow the procedure for completing Form I-9

- Give new employees the Form I-9 on their first day of employment in order to complete Section 1.
- An employer may have new employees complete Section 1 in advance of the first day of employment, but only after an offer of employment has been made and accepted and there is a definite employment start date.
- Employees must provide the required documentation of their identity (List B) and authorization to work in the U.S. (List C), or a document that establishes both their identity and employment authorization (List A) within three business days of their first day of employment.
- The employer must complete Section 2 within the first three days of employment. The employer must make sure the employee completed Section 1 and must review in the employee's presence the documents presented by the employee. The review requires the employer to make a reasonable and good faith effort to ensure the documents presented are genuine and relate to the employee.
- Once the review is complete, the employer representative must sign and date Section 2 attesting to review of the employee-provided documents.

### Enforcement Priority- BE CAREFUL

- The employer cannot require the employee to present a particular document, but must accept any documents tendered by the employee listed on the Form on List A or on Lists B and C.

### Maintain Forms I-9

- Have a completed Form I-9 on file for every current employee.
- Employers are required to maintain a copy of all separated employees' Forms I-9 for one year after termination, or three years after hire, whichever is longer.
- It is a best practice to retain copies of the identity and authorization documents provided by the employee with the Form I-9 even though that is not legally required. In the event a question arises concerning the employee's eligibility to work in the U.S. and proof is needed to show the employer made a good faith effort to comply with the law, copies of the employee provided document(s) will be important.

### Periodically check compliance

- The PIC should regularly update training of managers with hiring responsibilities in I-9 requirements.
- Periodically, the PIC should conduct a review of recently-completed forms to ensure they are properly completed.
- Correct discrepancies
  - If a Form is missing, use the process to complete the Form I-9
  - Correct technical errors on the existing Form I-9, but substantive errors may require a new Form. See <https://www.uscis.gov/i-9-central/complete-correct-form-i-9/self-audits-and-correcting-mistakes>
- Periodically, the PIC should spot check that the employer has forms for a segment of employees randomly chosen.