

Form I-9:

Clearing the Confusion and Answering Your Pressing Questions

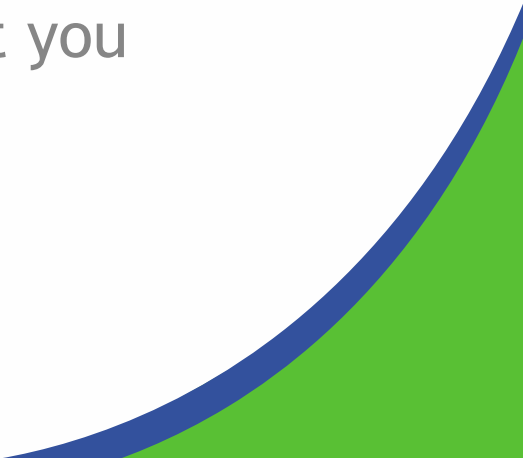
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Form I-9: Clearing the Confusion and Answering Your Pressing Questions


Welcome! Before we get started ...

- Use the chat box on the left to ask questions
 - If you are having audio trouble, please message us in the chat box, and we will do our best to assist you
- 


Why this Webinar?

- In our *May I-9* webinar, we received more than 350 questions from participants
 - Form I-9 is commonly called “the most complicated two-page form in the United States”
 - Form comes with 15 pages of instructions PLUS a 65-page employer handbook on proper completion
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Learning Objectives

- Quick overview of the Form I-9
 - Answer questions received from previous I-9 webinar
 - We'll get through as many as we can in the time allotted
 - Questions are in no particular order and are not grouped by topic
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Overview of Form I-9

- Used to verify employee's identity and work authorization
 - Issued by the Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS)
 - Must be completed within the first three days of employment
 - Part of the Form I-9 process involves:
 - examining documents presented by employees to establish their identity and eligibility to work
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Now on to the
Questions!

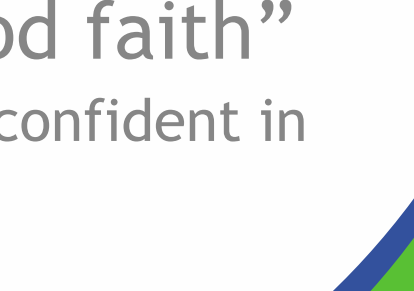


Question #1

Should I keep photocopies of the documents employees present to prove their authorization to work in the United States?



And the answer is ... It depends

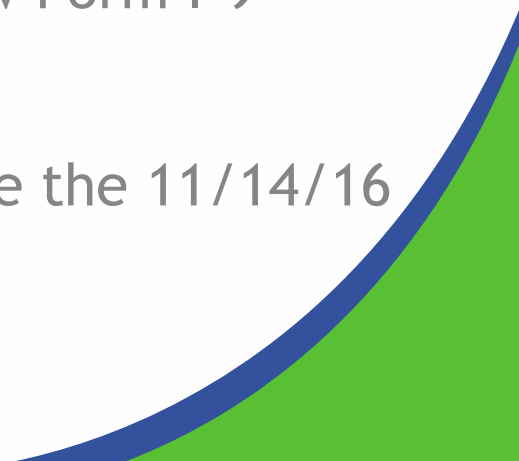
- Many employment attorneys recommend *against* keeping copies of documents
 - Photocopies can be used as evidence that you did not comply with verification requirements
 - Photocopies can put you at risk of liability for document abuse discrimination
 - On the flip side, photocopies can be evidence of compliance and “good faith”
 - But only keep copies if you are highly confident in your I-9 verification process
 - Be consistent in your procedures
- 

Question #2

What version of the Form I-9 should I be using? How can I tell if it's the current form?



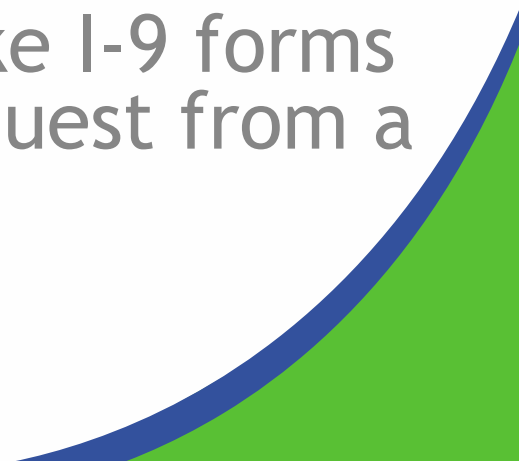
And the answer is ... 11/14/2016

- This is the date on the current Form I-9
 - **HOWEVER**, the government has announced that a new version will be released by July 17, 2017
 - This revision will be the second mandatory change in one year
 - All employers will be required to use the new Form I-9 beginning September 17, 2017
 - Until mid-September, you can continue to use the 11/14/16 version
- 

Question #3

Do I need to submit the Form I-9 to the government?

And the answer is ... No


- You do not submit the Form I-9 to any government agency or any government website
 - You are simply required to have them on hand
 - If you are audited, you must make I-9 forms available for inspection upon request from a U.S. government official
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Question #4

Do I need a Form I-9 for independent contractors?



And the answer is ... No

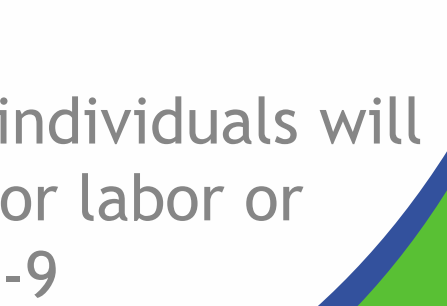
- You do not need to complete a Form I-9 for independent contractors or their staff as long as:
 - Contractor is legally classified as independent contractor
 - Not an actual employee
- 

Question #5

**Do I need a Form I-9 for
volunteers?**




And the answer is ... No

- In general, Forms I-9 are not required for unpaid individuals unless the individuals will receive something of value in exchange for their labor (also referred to as remuneration)
 - Remuneration can come in many forms, such as money, meals, lodging and other benefits
 - If your company determines that unpaid individuals will receive something of value in exchange for labor or services, you should complete the Form I-9
- 

Question #6


When a new version of the Form I-9 is released, do I need to have my existing employees complete the updated form?

And the answer is ... No

- You always complete the current I-9 for employees within the first three days of employment
 - Employees do not complete a new Form I-9 when the government releases a new version
 - They fill out the form that was current on their first day of employment
- 


Question #7

How would you recommend completing the Form I-9 for remote workers who will not be onsite during their first 3 days?



And the answer is ...

That's a tough one

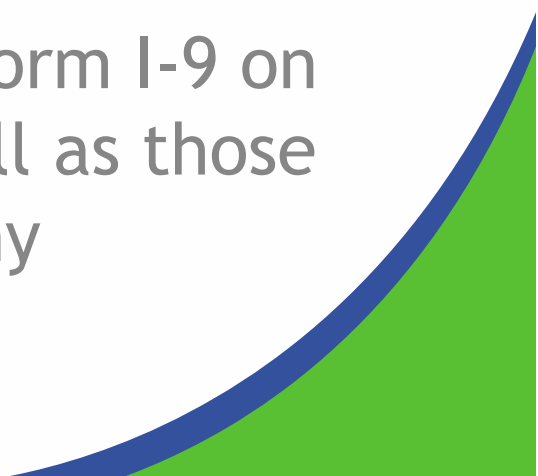
- You and the employee can fill out the form electronically
 - HOWEVER, the employee's documentation must be verified in person
 - If the employee cannot come into the office, you must appoint a local representative to review the documents
- 

Question #8

How long do we have to keep
Form I-9s on file?



And the answer is ... It's complicated

- You must keep a Form I-9 for each employee either for three years after the employee's first day of work **OR** for one year after the employee's last day of work ... whichever is later
 - In other words, you should have a Form I-9 on file for all current employees as well as those who have recently left your company
- 


Let's look at an example

- Fred was hired on 11/11/11
- Fred was fired on 11/11/16
- Hire: $11/11/11 + 3 \text{ years} = 11/11/14$
- Termination: $11/11/16 + 1 \text{ year} = 11/11/17$
- **You must keep the form on file until
11/11/17**

Question #9

Should I keep Form I-9s in each employee's personnel file?

And the answer is ... No


- Store all I-9 records together, and apart from other employee personnel records
 - Storing your I-9 records separately helps limit your exposure in an audit by keeping unrelated documents out of the inquiry
- 

Question #10

If I am self-employed, do I have to fill out a Form I-9 for myself?



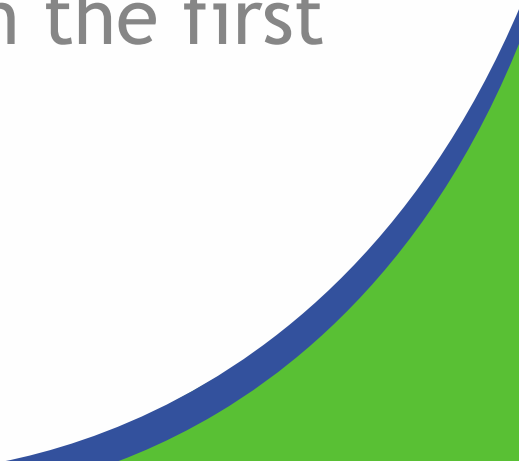
And the answer is ... No

- A self-employed person does not need to complete a Form I-9 unless he or she is an employee of a separate business entity, such as a corporation or partnership
 - If the person is an employee of a separate business entity, he or she will have to complete a Form I-9
- 

Question #11

Can new employees complete the Form I-9 in advance of their first day of work?

And the answer is ... Yes


- The Form I-9 may be completed as soon as the employer has offered the individual a job and the individual has accepted the offer
 - Each new employee must complete and sign Section 1 of Form I-9 no later than the first day of employment
- 

Question #12

Do U.S. citizens need to complete a Form I-9?




And the answer is ... Yes

- A Form I-9 is required even if you know the employee is a U.S. citizen
 - As a general rule, you must complete and retain a Form I-9 for every employee you hire
 - You do NOT need a Form I-9 for employees hired before 11/6/86, subcontractors or for workers from a temp agency
- 

Question #13

If my company does I-9s online, do we need a paper copy with an signed employee signature?

And the answer is ... No

- Electronic I-9s are perfectly legal
 - You do not need a paper backup
 - Digital signatures for I-9s are acceptable
 - If you use an online process you still must visually examine the documents the employee provides to prove work eligibility
- 

Question #14

Do I need to re-verify documents, update the I-9, etc. if my employee is a U.S. citizen?

And the answer is ... No

You never ever have to update a Form I-9 for American citizens:

- Not if they change addresses
- Not if they get married or change names
- Not if their passport or driver's license expires
- Not if a new version of the I-9 is released
- Not if your office moves

For U.S. citizens, it's one and done

Question #15

Do I need to re-verify documents, update the I-9, etc. if my employee is not a U.S. citizen?

And the answer is ... It depends

- Only if they are foreign workers with *temporary* authorization
- These workers must indicate the expiration date under Section 1 of the I-9
- Then you must re-verify the eligibility to work in the U.S. on or before this date

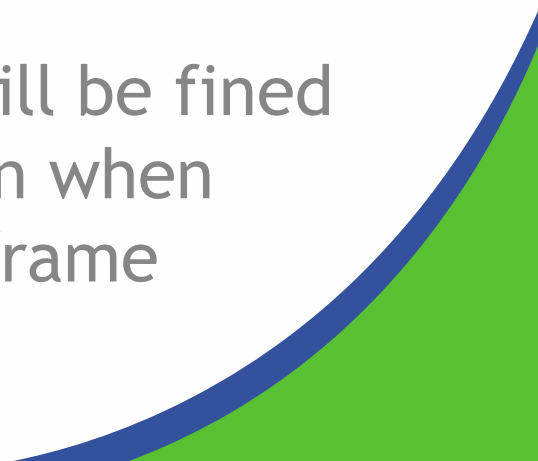
If employees are foreign workers with permanent residency, re-verification is unnecessary and illegal.

Question #16

Should I toss I-9s as soon as it's legal to do so?



And the answer is ... Yes


- Under federal law, you must keep the I-9 for three years after the employee's first day of work or one year after the last day of work - whichever is later
 - After this date, shred and discard the paperwork
 - This date matters because you can still be fined for improperly completed forms, even when they're kept past the retention timeframe
- 

Question #17

When must new employees complete Form I-9?

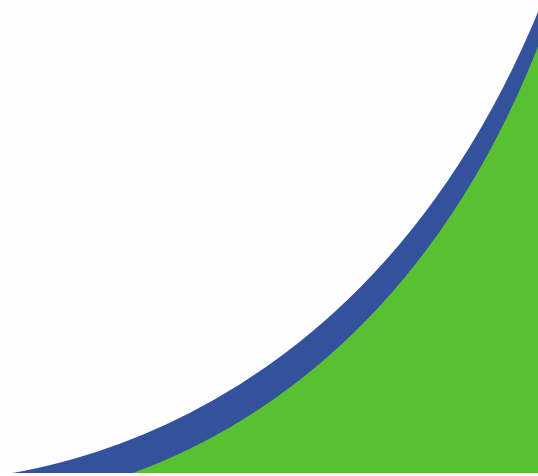


And the answer is ... Day 1

- The employee should fill out Section 1 on (or before) the first day of work
 - You must complete Section 2 within three days of the employee's start date
- 


Question #18

What do I do if I discover a Form I-9 is missing for a current employee?



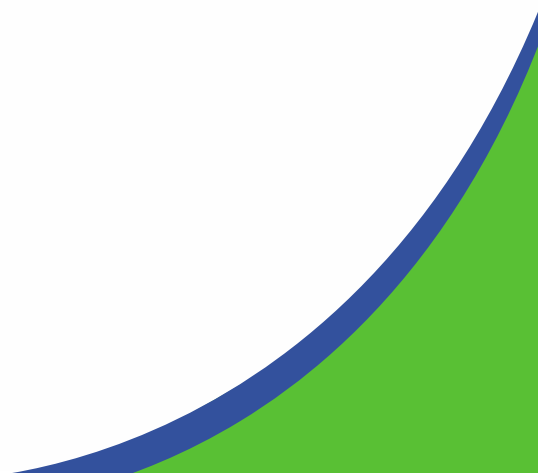
And the answer is ...

Complete a New One ASAP


- Have the employee complete a new Form I-9 immediately
 - Use the current date - **never backdate a Form I-9**
 - In section 2, be sure to specify the employee's actual start date
 - Attach a signed and dated explanation of the corrective action taken
- 

Question #19

If your company has multiple locations, where should the I-9s be stored?




And the answer is ... Doesn't Really Matter

- You can keep the I-9 forms at headquarters or at the office location
 - The most important thing is that you have a Form I-9 on file
 - If you do have multiple locations this is a great reason to consider an online recordkeeping option
- 


Question #20

What address do you use
when filling out the form?
Work location or
headquarters?



And the answer is ...


Where the Employee Works

- USCIS wants to know the location where the employee is physically working
 - Using the work location - and not headquarters - is recommended
 - However, this isn't a hard and fast rule so don't worry if your I-9s have the headquarters listed
- 

Question #21

When it comes to the employer's address, is it okay to use an ink stamp on that field?


And the answer is ... Yes

- You can stamp the company name and address
 - You cannot stamp the employer or employee's signature
 - Signatures must be handwritten or electronic - an ink stamp is not acceptable
- 

Question #22

When conducting a self-audit, can I “white out” incorrect information and write in the correct information?

And the answer is ... No


- Never use corrective fluid on a Form I-9
 - If, during an audit, you discover incorrect information, cross it out
 - Then add the right information and initial and date the correction
 - You may also write “self-audit” next to your initials and date
- 

Question #23

What do I do if an employee's name is different on the identification documents from what it is on the I-9 form?

And the answer is ...

Use your best judgment


- You should inquire the reason (e.g., marriage)
 - You need to examine the documentation presented to determine if it *reasonably* relates to the employee
 - Use your best judgment and attach a brief memo to the Form I-9 stating the reason given for the discrepancy
 - Employees are not required to provide documentation to support the name change
- 

Question #24

What starts an investigation by the U.S. Immigration and Customs Enforcement (ICE) office?



And the answer is ... It depends


- ICE investigations are commonly started by anonymous tips or third-party complaints
 - ICE also conducts random audits by selecting companies from a database of all U.S. employers
 - Industries with a history of employing unauthorized workers (e.g., agriculture) are more at risk
 - An investigation may also result from another government agency discovering a violation during its own investigation (e.g., OSHA)
- 

Question #25

Do my employees have to answer questions during an ICE investigation?

And the answer is ... No

Your employees have certain rights , including:

- The right to not talk to the investigator
 - The right to refuse to answer certain questions
 - The right to refuse to sign a written statement
- 

ComplyRight I-9 Solutions

- Form I-9 (paper or downloadable)
- Self-Audit Correction Form

The image shows two forms side-by-side. On the left is the standard Employment Eligibility Verification Form (I-9) from the U.S. Citizenship and Immigration Services. It includes sections for 'Section 1: Employee Information and Attestation' and 'Section 2: Documentation Requirements'. On the right is the 'I-9 Self-Audit Correction Form'. This form has a header with 'Employee Name' and 'Department'. It contains a section titled 'During a self-audit of our I-9 Forms, we discovered and corrected the following errors:' with a list of checkboxes for various errors such as 'Over documentation (List A, B and C: listed out)', 'List A - document title, issuing authority, document number or expiration date is missing or incorrect', and 'List B and C: have insufficient document information or missing expiration date(s) when applicable'. Below this is a section 'In order to repair the errors, we took the following action:' with lines for describing the corrections. At the bottom, there is a 'Signature of Employer's Representative' line and a date field. The ComplyRight logo is visible in the bottom left corner of the form.

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