

How to Conduct an I-9 Audit

The Immigration Reform and Control Act of 1986 (IRCA) was enacted to prevent individuals who are not authorized to work in the United States from taking up employment. Under this act, employers are required to complete an I-9 Form for each new employee within three days of the start of their employment.

To demonstrate compliance, employers should adhere to the I-9 verification requirements and treat all new hires consistently. The process includes the following steps:

1. Complete the I-9 Form: This form helps verify that individuals hired are authorized to work in the United States.
2. Accept Documents: Employees should be allowed to present any document or combination of documents that are legally acceptable. Employers cannot favor one document over another when completing the I-9 Form. As long as the documents are unexpired, meet the criteria listed on the most current Form I-9, and appear to be genuine and issued to the person presenting them, they should be accepted. A list of acceptable documents is provided at the end of the Form I-9.

Employers must ensure that all of their I-9 Forms are accurately completed and properly organized. Below is a step-by-step process for auditing I-9 Forms.

Step 1: Gather All I-9 Forms on File

Employers should verify that there is a Form I-9 on file for every current employee who performs work for the employer in the United States. It is helpful to maintain a list of current employees for whom there is no Form I-9 on file.



Employers should not have I-9 Forms for non-employees who may perform work, such as volunteers, independent contractors, or consultants. If an employer has an I-9 Form for these individuals, it should be removed from the official Form I-9 file.



Employers should maintain two separate files for I-9 Forms: one for current employees and another for those who no longer work for the employer.

Each Form I-9 will be handled separately and prioritized accordingly. The highest priority is given to current employees who do not have a Form I-9 on file, as their eligibility to work in the United States needs to be verified as quickly as possible. The next priority is to

review the Forms I-9 of current employees to ensure they have been completed properly. The lowest priority will be to manage the I-9s of terminated employees.

Step 2: Obtain Forms I-9 for Current Employees Who Are Missing I-9s

Generally, any employee hired before November 6, 1986, and still employed with the company is not required to have a Form I-9 on file. However, all employees hired on or after this date, who do not have an I-9 on record, will need to be contacted and instructed to provide documentation from List A or Lists B and C of the I-9 Form.



Communication with these employees should be apologetic, yet firm. Employers should express regret that the necessary documentation was either lost or not collected at the start of employment. Explain that the I-9 Form must be completed under federal law and that the employee will not be able to continue working for the organization if they cannot provide the required documents. It is better to communicate with each employee individually rather than as a group. While verbal communication is sufficient, employers may also choose to send an email or memo to the employee. Copies of all communications sent to employees missing I-9s should be kept in the I-9 Form audit file.

Organizations should establish a due date for employees to provide the required documentation, recommending that they bring the items with them on their next scheduled workday. If employees have the necessary

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documentation available, employers should sit down with them and complete the I-9 Form immediately. Employers must view the original documents (not copies). The current date should be used when completing the I-9 Form, while the date of hire should reflect the employee's actual hire date, which may have been years earlier. Employers should attach a short memo to the corrected I-9 Form explaining that there was no I-9 on file and that the employee completed the I-9 during the audit. This memo demonstrates the employer's good faith effort to comply with regulations.

Once the I-9 Form is completed, the employee's name can be removed from the audit list, and the completed I-9 should be added to the organization's file of Forms I-9 for current employees.

Some employees may struggle to find their documents. According to the United States Citizenship and Immigration Services (USCIS) Handbook for Employers (<https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274>), certain receipts may be acceptable as a substitute for specific documents for a limited period. Generally, a receipt for a lost, stolen, or damaged document may be acceptable for up to 90 days. There are also document receipts specifically for refugees and lawful permanent residents. Receipts that do not meet the requirements established by USCIS will not be considered acceptable substitutes for documents in List A, List B, or List C.

If an employee fails to provide the required documents within the specified time frame, the employer should either terminate their employment or place the employee on a leave of absence. The employee must be informed that they may be able to return to work for the organization once they provide proof of eligibility to work in the United States, if that is the organization's intention.

Step 3: Audit Forms I-9 of Current Employees

This is the most challenging part of the I-9 auditing process. A number of elements must be completed accurately to ensure compliance. In addition to the USCIS Handbook for Employers, USCIS has a section on its website titled "I-9 Central," which provides additional information about the entire I-9 process. Anyone conducting an I-9 audit should keep these resources handy, as they answer many questions related to the proper completion of I-9 Form.



Lastly, employers should clearly indicate that a change is a correction; using a different color ink and ensuring that changes are initialed and dated with the current date will help clarify this.

As employers begin this process, they should separate the I-9s into two files: the first for properly completed I-9s that can be filed away, and the second for I-9s that contain errors. Step 4 discusses how to address these errors.

Step 4: Correct Errors

Employers should begin this step by creating a list of all I-9 Forms that contain errors. This list will serve as an audit log, demonstrating the employer's good faith effort to ensure compliance with I-9 Form requirements. The log should include three columns: employee's name, the identified error(s), and the actions taken to correct each error. For now, the employer will fill in the first two columns: the employee's name and the error found. As employers address each incorrect I-9, they can refer to the USCIS "[Handbook for Employers](#)" and "[Self-Audits and Correcting Mistakes](#)" for guidance on how to correct specific errors.



If you participate in E-Verify and the employee presents a document used as part of Photo Matching—currently the U.S. passport and passport card, Permanent Resident Card (Form I-551), and Employment Authorization Document (Form I-766)—you must retain a photocopy of the document presented.

If you do not participate in E-Verify, you are not required to make photocopies of documents. However, if you wish to make photocopies of documents other than those used in E-Verify, you must do so for all employees. Photocopies must not be used for any other purpose. Making photocopies does not excuse you from the obligation to fully complete Section 2 of I-9 Form and is not an acceptable substitute for properly completing I-9 Form in general.

If the employer intends to continue photocopying employment authorization and identity documents for I-9s but currently lacks photocopies for some documents, the employer should request copies from employees now. These copies should be attached to the I-9, along with a memo clearly stating that a I-9 Form

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audit was performed, that the photocopy was missing, and that it was obtained during the audit process. The current date should be included, and the memo must be attached to the I-9 Form.

If the employer's intention was previously to obtain copies of employment authorization and identity documents, but plans to discontinue this practice moving forward, a memo should be written for the I-9 Form audit file. This memo should explain that a I-9 Form audit was conducted, revealing discrepancies where some I-9s prior to the audit date have photocopies and others do not. The memo should clarify that the company has decided not to keep photocopies of I-9 employment authorization or identity documents in the future. This shows a good faith effort on the employer's part to maintain compliance.

Step 5: Completing the Audit

As corrections are made and missing I-9 Forms are submitted, the employer's next task is to organize the I-9 Forms and clearly document the steps taken during the audit. Employers can refer to the guide on how to retain and file Forms I-9 for additional assistance in organizing their I-9 files. It may be beneficial to print this procedure to record the process followed during the audit.



Employers should retain the I-9 Form audit logs and any communications sent to employees regarding the I-9 audit. It is advisable to keep the audit documentation in a separate I-9 Form audit file or include it with the I-9 Forms themselves.

“Leadership is the art of accomplishing more than the science of management says is possible.” - Colin Powell



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How to Conduct an HR Investigation

Thursday, February 20, 2025 2:00 PM (PST)

Join our upcoming webinar on “How to Conduct an HR Investigation” to learn the essential steps for handling workplace investigations effectively. This session will cover key topics such as gathering evidence, interviewing witnesses, maintaining neutrality, and ensuring legal compliance throughout the process. Whether you're new to HR or looking to refine your investigative skills, this webinar will provide practical tips and best practices to help you navigate complex situations and make informed, fair decisions. Don't miss this opportunity to enhance your HR expertise and foster a compliant, transparent workplace!

Heavy Equipment Safety and Inspections

Tuesday, February 25, 2025 1:30 PM (PST)

With an extensive background in heavy equipment operations, Alicia Carpenter, TPM Safety Specialist, offers insights to apply to equipment operations. Participants will learn the importance of using their five senses during operation and how to do (pre and post) trip inspections. Incorporating these inspections and tips will not only increase efficiency but also significantly reduce risks associated with heavy equipment operation. Learn what OSHA says regarding safe operation of heavy equipment. And how a well-maintained piece of equipment as well as an ongoing safety plan can create a safer, more productive work environment for everyone.

Managing Contractor Safety – Pre-qualification

Wednesday, February 26, 2025 1:30 PM (PST)

The suppliers, contractors, and vendors you hire can have a large impact on your organization's success. Today, owners, prime and subcontractors are no longer insulated from one another's safety liabilities. The risk introduced to your business by any supplier in your supply chain inherently becomes your risk. Organizations will be held accountable for the decisions they make on who they hire – including third-party contractors. This webinar can help you begin to manage and mitigate this risk to your organization.

Rigging and Signaling

Tuesday March 25, 2025 1:30 PM (PDT)

The Rigging and Signaling webinar will help all signal persons, riggers and crane operators understand the importance of inspections, clear communication and how rigging and signaling requirements effect the productivity and safety of the entire jobsite. Learn what OSHA says regarding rigging and signaling and understand the importance of a well-implemented safety program.