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2024 HR Virginia Conference

Going for Gold:

Excelling in the New I-9 & E-Verify Landscape

Presented by James B. Wood, Esq.

Awards You Don't Want to Win

Significant Penalties



Civil Fines

- I-9 Paperwork Violations:
 - \$272 - \$2,701 per I-9
- Knowingly hiring, recruiting, referring, or retaining an unauthorized alien (per unauthorized alien):
 - 1st Offense: \$676 - \$5,404
 - 2nd Offense: \$5,404 - \$13,508
 - 3rd Offense: \$8,106 - \$27,018



Debarment from government contracts



Court order requiring the payment of back pay to the individual discriminated against



Court order requiring the employer to hire the individual discriminated against



Criminal penalties for engaging in a pattern or practice of hiring, recruiting, or referring for a fee unauthorized noncitizens

Why is Compliance Important?

- ICE has asked Congress for more investigators
- ICE audits are expected to rise – 300% increase between 2017-2018
- ICE has indicated that generally 76% of I-9s audited have a fineable error
- One expert estimates that an average recommended fine of \$2,000 per substantive error on I-9
- Same expert estimates that based on current audit trends, companies have a 95% chance of being audited within the next decade

Examples of Fines

2017: Asplundh Tree Experts

\$90 million (\$80 million criminal forfeiture; \$15 million civil fines)

2023: Mr. Glass Doors Group

\$120,000

2023: GM

\$365,000

2023: Minnesota-based staffing company

\$355,000 (\$255k in civil fines; \$100k in back pay fund)

- Fines reduced from OCAHO in 2022:
 - \$2.5 million -> \$1.5 million
 - \$431,609 -> \$344,000
 - \$286,356 -> \$183,000

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Securing the Podium:

The I-9's Role in Champion Compliance

▶ IRCA now mandates that employers complete the Form I-9 for new employees hired on or after November 7, 1986 to verify the identity and employment eligibility of new employees



As a result of IRCA, at the most basic level, federal law now prohibits and forbids:

- An employer knowingly hiring an unauthorized alien;
- This includes both actual and constructive knowledge
- An employer continuing to employ a person if the employer becomes aware that the individual is or has become unauthorized; and
- An employer hiring any individual without complying with the employment verification process.

Who Must be Verified?

- All new hires, including remote, temporary, and part-time employees
- Must also be completed for any employees who are working in the U.S., even if they are on the payroll of a foreign affiliate

Companies are not required to complete the I-9 for:

- Independent Contractors;
- Employees hired before November 7, 1986; and/or
- Employees working outside of the U.S.

How? Who?

The I-9 must be completed in person

- Section 1 must be completed by the employee
- Section 2 must be completed by an employer's authorized representative
 - In most cases, this will be a manager, HR professional, etc.
 - It could also be another employee who otherwise has nothing to do with HR or the I-9 process
 - It could be a third-party (non-employee) designated by the company
 - NOTE: At least one state, California, has a law restricting who can be designated as a third-party



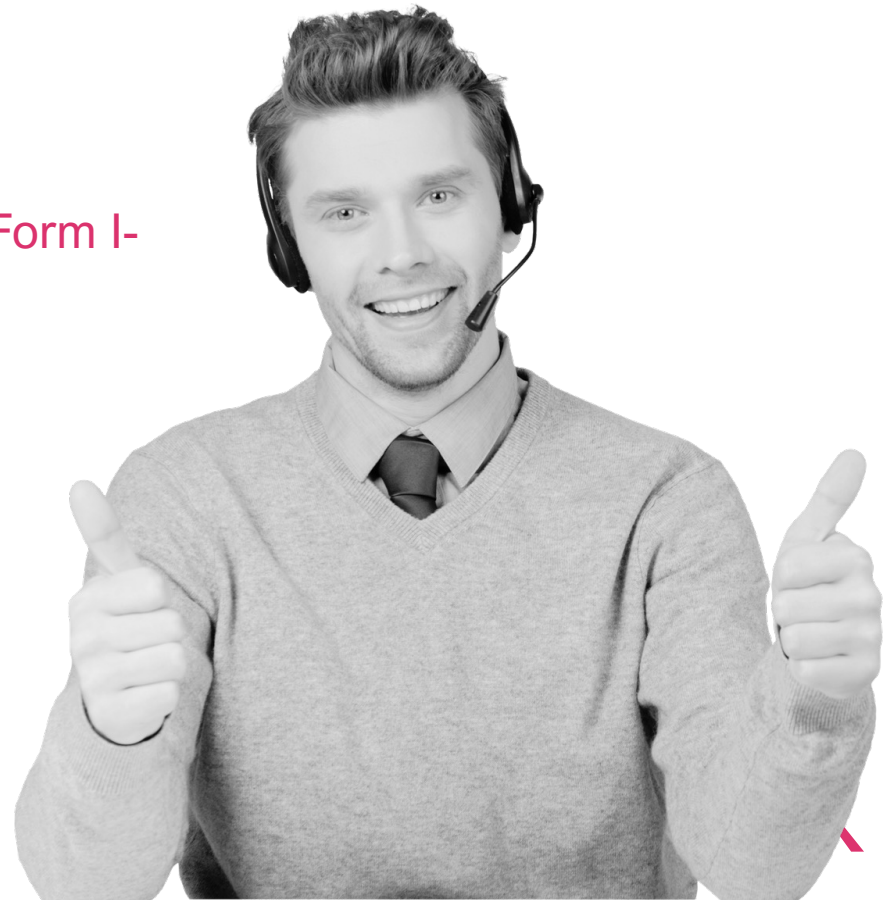
The Authorized Representative

You may delegate the authority to complete the Form I-9 to a responsible agent, however, you will retain liability for any errors!



Gold Medal Tip

Promptly review I-9s completed by authorized representatives who have not had I-9 training and/or who are outside your organization!



Which Version of the Form I-9 Should be Used?

Employers must use the **08/01/23** edition

If you ever need to use a paper copy of the I-9, go to:

uscis.gov/i-9

Completing the Form I-9

Section 1:

Completed by the Employee on or before first date of employment

Supplement A, Preparer and/or Translator Certification for Section 1:

Completed by individuals who assist employees in completing/translating Section 1

Section 2:


Completed by the Employer within three business days of the date of hire (USCIS has clarified that this means if the employee starts Monday, you must complete by Thursday) or if the employee will work for three or fewer days on or before the first date of employment

Acceptable Documents for Verification

Supplement B, Reverification and Rehires:

Completed by the Employer when reverification of eligibility is required

Section 1

		Employment Eligibility Verification Department of Homeland Security U.S. Citizenship and Immigration Services		USCIS Form I-9 <small>OMB No. 1615-0047</small> <small>Expires 10/31/2022</small>
<p>▶ START HERE: Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.</p> <p>ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) an employee may present to establish employment authorization and identify. The refusal to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.</p>				
Section 1. Employee Information and Attestation <i>(Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)</i>				
Last Name (Family Name)		First Name (Given Name)		Middle Initial
Address (Street Number and Name)		Apt. Number	City or Town	State ZIP Code
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number	Employee's E-mail Address		Employee's Telephone Number
<p>I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.</p> <p>I attest, under penalty of perjury, that I am (check one of the following boxes):</p> <p><input type="checkbox"/> 1. A citizen of the United States</p> <p><input type="checkbox"/> 2. A noncitizen national of the United States (See instructions)</p> <p><input type="checkbox"/> 3. A lawful permanent resident (Alien Registration Number/USCIS Number): _____</p> <p><input type="checkbox"/> 4. An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy): _____ <small>Some aliens may write "N/A" in the expiration date field. (See instructions)</small></p> <p>Aliens authorized to work must provide only one of the following document numbers to complete Form I-9: <small>An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.</small></p> <p>1. Alien Registration Number/USCIS Number: _____ <small>OR</small> 2. Form I-94 Admission Number: _____ <small>OR</small> 3. Foreign Passport Number: _____ Country of Issuance: _____</p> <p style="text-align: right;"><small>OR Code - Section 1 Do Not Write in This Space</small></p>				
Signature of Employee			Today's Date (mm/dd/yyyy)	
Preparer and/or Translator Certification (check one): <input type="checkbox"/> I did not use a preparer or translator. <input type="checkbox"/> A preparer(s) and/or translator(s) assisted the employee in completing Section 1. <small>(Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)</small>				
<p>I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.</p>				
Signature of Preparer or Translator			Today's Date (mm/dd/yyyy)	
Last Name (Family Name)		First Name (Given Name)		
Address (Street Number and Name)		City or Town	State	ZIP Code
STOP		Employer Completes Next Page		STOP
Form I-9 10/21/2019				Page 1 of 3

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Section 1: What's Changed?

- Small, but effective changes
- Same information is required
 - Name
 - DOB
 - Address
 - SSN
 - Email
 - Phone
 - Citizenship Status
 - Signature
 - Date
- Streamlined Section 1
- Removed Preparer and/or Translator section and added that as an addendum

Section 1. Employee Information and Attestation: Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.				
Last Name (Family Name)		First Name (Given Name)		Middle Initial (if any)
Address (Street Number and Name)		Apt. Number (if any)	City or Town	State ZIP Code
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number	Employee's Email Address		Employee's Telephone Number
I am aware that federal law provides for imprisonment and/or fines for false statements, or the use of false documents, in connection with the completion of this form. I attest, under penalty of perjury, that this information, including my selection of the box attesting to my citizenship or immigration status, is true and correct.	Check one of the following boxes to attest to your citizenship or immigration status (See page 2 and 3 of the instructions.):			
	<input type="checkbox"/> 1. A citizen of the United States			
	<input type="checkbox"/> 2. A noncitizen national of the United States (See Instructions.)			
	<input type="checkbox"/> 3. A lawful permanent resident (Enter USCIS or A-Number.)			
<input type="checkbox"/> 4. A noncitizen (other than Item Numbers 2. and 3. above) authorized to work until (exp. date, if any)				
If you check Item Number 4. , enter one of these:				
USCIS A-Number		OR	Form I-94 Admission Number	OR
				Foreign Passport Number and Country of Issuance
Signature of Employee			Today's Date (mm/dd/yyyy)	
If a preparer and/or translator assisted you in completing Section 1, that person MUST complete the Preparer and/or Translator Certification on Page 3.				

Common Errors in Section 1

- Not completed by the employee on or before the first day of hire
- Names Reversed
- Incomplete Address
- Date of Birth in the Current Date field
- Box not checked indicating immigration status
- Appropriate immigration information not provided based on the box checked
- Unsigned or missing dates




GOLD MEDAL TIP

The employee must complete, date, and sign Section 1, BUT the employer is still held liable for any errors – the employer should promptly review Section 1 as completed by the employee and compare the information in the supporting documentation

Supplement A,

Preparer and/or Translator Certification for Section 1

 **Supplement A,
Preparer and/or Translator Certification for Section 1**
Department of Homeland Security
U.S. Citizenship and Immigration Services

**USCIS
Form I-9
Supplement A**
OMB No. 1615-0047
Expires 07/31/2026

Last Name (Family Name) from Section 1.	First Name (Given Name) from Section 1.	Middle Initial (if any) from Section 1.
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Instructions: This supplement must be completed by any preparer and/or translator who assists an employee in completing Section 1 of Form I-9. The preparer and/or translator must enter the employee's name in the spaces provided above. Each preparer or translator must complete, sign, and date a separate certification area. Employers must retain completed supplement sheets with the employee's completed Form I-9.

I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.

Signature of Preparer or Translator		Date (mm/dd/yyyy)	
Last Name (Family Name)		First Name (Given Name)	
Middle Initial (if any)		Address (Street Number and Name)	
City or Town		State	ZIP Code

I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.

Signature of Preparer or Translator		Date (mm/dd/yyyy)	
Last Name (Family Name)		First Name (Given Name)	
Middle Initial (if any)		Address (Street Number and Name)	
City or Town		State	ZIP Code

I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.

Signature of Preparer or Translator		Date (mm/dd/yyyy)	
Last Name (Family Name)		First Name (Given Name)	
Middle Initial (if any)		Address (Street Number and Name)	
City or Town		State	ZIP Code

I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.

Signature of Preparer or Translator		Date (mm/dd/yyyy)	
Last Name (Family Name)		First Name (Given Name)	
Middle Initial (if any)		Address (Street Number and Name)	
City or Town		State	ZIP Code

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Section 2

Section 2. Employer or Authorized Representative Review and Verification				
<i>(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents.")</i>				
Employee Info from Section 1	Last Name (Family Name)	First Name (Given Name)	M.I.	Citizenship/Immigration Status
List A Identity and Employment Authorization		OR	List B Identity	AND List C Employment Authorization
Document Title	Document Title	Document Title	Document Title	Document Title
Issuing Authority	Issuing Authority	Issuing Authority	Issuing Authority	Issuing Authority
Document Number	Document Number	Document Number	Document Number	Document Number
Expiration Date (if any) (mm/dd/yyyy)	Expiration Date (if any) (mm/dd/yyyy)	Expiration Date (if any) (mm/dd/yyyy)	Expiration Date (if any) (mm/dd/yyyy)	Expiration Date (if any) (mm/dd/yyyy)
Document Title	Additional Information		QR Code - Sections 2 & 3 Do Not Write In This Space	
Issuing Authority				
Document Number				
Expiration Date (if any) (mm/dd/yyyy)				
Document Title				
Issuing Authority				
Document Number				
Expiration Date (if any) (mm/dd/yyyy)				

Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy): _____ (See instructions for exemptions)

Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)	Title of Employer or Authorized Representative		
Last Name of Employer or Authorized Representative	First Name of Employer or Authorized Representative	Employer's Business or Organization Name		
Employer's Business or Organization Address (Street Number and Name)		City or Town	State	ZIP Code

Section 2: What's Changed?

- Streamlined layout
- Made Employer's Certification more understandable and clearer
- Alternative Procedure

Section 2. Employer Review and Verification: Employers or their authorized representative must complete and sign Section 2 within three business days after the employee's first day of employment, and must physically examine, or examine consistent with an alternative procedure authorized by the Secretary of DHS, documentation from List A OR a combination of documentation from List B and List C. Enter any additional documentation in the Additional Information box; see Instructions.			
	List A	OR	List B AND List C
Document Title 1			
Issuing Authority			
Document Number (if any)			
Expiration Date (if any)			
Document Title 2 (if any)	Additional Information		
Issuing Authority			
Document Number (if any)			
Expiration Date (if any)			
Document Title 3 (if any)	<input type="checkbox"/> Check here if you used an alternative procedure authorized by DHS to examine documents.		
Issuing Authority			
Document Number (if any)			
Expiration Date (if any)			
Certification: I attest, under penalty of perjury, that (1) I have examined the documentation presented by the above-named employee, (2) the above-listed documentation appears to be genuine and to relate to the employee named, and (3) to the best of my knowledge, the employee is authorized to work in the United States.			First Day of Employment (mm/dd/yyyy):
Last Name, First Name and Title of Employer or Authorized Representative		Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)
Employer's Business or Organization Name		Employer's Business or Organization Address, City or Town, State, ZIP Code	

Common Errors in Section 2

- Not completed by the Employer within three business days of the date of hire
- Employer does not view actual documents
- Employee not present when Employer verifies documents
- Date of hire not completed
- Overdocumentation
- Column B and C documents are reversed
- Document numbers or expiration date missing
- Employer information incomplete
- Employer fails to sign and date section
- The person who signs Section 2 needs to be the same person who viewed the actual documents presented



GOLD MEDAL TIP

Complete Section 2 as early as possible. It provides the employee with more time to provide the appropriate documents.

Remote Completion

- In March 2020, DHS implemented a “temporary” policy allowing for the remote completion of I-9s
 - This was limited to employees working exclusively in a remote setting due to COVID-19 precautions
- Employers enjoyed this and DHS recognized the permanent need for a remote process
- In August 2023, DHS rolled out the new remote completion option
 - E-Verify Participation: Employers wanting to use the new process must participate in E-Verify
- Remote Examination Procedure:
 - Conduct a live video interaction for verifying documentation genuineness and relation to the employee
 - Retain clear, legible copies of all examined documents
 - Examine the front and back of documents presented
 - Check the designated box in Section 2 indicating use of the “alternative procedure”



Acceptable Documents

LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
<ol style="list-style-type: none"> 1. U.S. Passport or U.S. Passport Card 2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551) 3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa 4. Employment Authorization Document that contains a photograph (Form I-766) 5. For an individual temporarily authorized to work for a specific employer because of his or her status or parole: <ol style="list-style-type: none"> a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: <ol style="list-style-type: none"> (1) The same name as the passport; and (2) An endorsement of the individual's status or parole as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form. 6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI 		<ol style="list-style-type: none"> 1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address 2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address 3. School ID card with a photograph 4. Voter's registration card 5. U.S. Military card or draft record 6. Military dependent's ID card 7. U.S. Coast Guard Merchant Mariner Card 8. Native American tribal document 9. Driver's license issued by a Canadian government authority <li style="text-align: center;">For persons under age 18 who are unable to present a document listed above: 10. School record or report card 11. Clinic, doctor, or hospital record 12. Day-care or nursery school record 		<ol style="list-style-type: none"> 1. A Social Security Account Number card, unless the card includes one of the following restrictions: <ol style="list-style-type: none"> (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION 2. Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240) 3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal 4. Native American tribal document 5. U.S. Citizen ID Card (Form I-197) 6. Identification Card for Use of Resident Citizen in the United States (Form I-179) 7. Employment authorization document issued by the Department of Homeland Security For examples, see Section 7 and Section 13 of the M-274 on uscis.gov/i-9-central. The Form I-766, Employment Authorization Document, is a List A, Item Number 4, document, not a List C document.

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Acceptable Receipts

LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
<p>Acceptable Receipts</p> <p>May be presented in lieu of a document listed above for a temporary period. For receipt validity dates, see the M-274.</p>				
<ul style="list-style-type: none"> • Receipt for a replacement of a lost, stolen, or damaged List A document. • Form I-94 issued to a lawful permanent resident that contains an I-551 stamp and a photograph of the individual. • Form I-94 with "RE" notation or refugee stamp issued to a refugee. 	OR	<p>Receipt for a replacement of a lost, stolen, or damaged List B document.</p>		<p>Receipt for a replacement of a lost, stolen, or damaged List C document.</p>

Supplement B

Reverification and Rehire (formerly Section 3)



Supplement B,
Reverification and Rehire (formerly Section 3)
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
Supplement B
OMB No. 1615-0047
Expires 07/31/2026

Last Name (Family Name) from Section 1.	First Name (Given Name) from Section 1.	Middle Initial (if any) from Section 1.
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Instructions: This supplement replaces Section 3 on the previous version of Form I-9. Only use this page if your employee requires reverification, is rehired within three years of the date the original Form I-9 was completed, or provides proof of a legal name change. Enter the employee's name in the fields above. Use a new section for each reverification or rehire. Review the Form I-9 instructions before completing this page. Keep this page as part of the employee's Form I-9 record. Additional guidance can be found in the [Handbook for Employers: Guidance for Completing Form I-9 \(M-274\)](#)

Date of Rehire (if applicable) Date (mm/dd/yyyy)	New Name (if applicable) Last Name (Family Name)	First Name (Given Name)	Middle Initial
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Reverification: If the employee requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.

Document Title	Document Number (if any)	Expiration Date (if any) (mm/dd/yyyy)
----------------	--------------------------	---------------------------------------

I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.

Name of Employer or Authorized Representative	Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)
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Additional Information (Initial and date each notation.)

Check here if you used an alternative procedure authorized by DHS to examine documents.

Date of Rehire (if applicable) Date (mm/dd/yyyy)	New Name (if applicable) Last Name (Family Name)	First Name (Given Name)	Middle Initial
---	---	-------------------------	----------------

Reverification: If the employee requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.

Document Title	Document Number (if any)	Expiration Date (if any) (mm/dd/yyyy)
----------------	--------------------------	---------------------------------------

I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.

Name of Employer or Authorized Representative	Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)
---	--	---------------------------

Additional Information (Initial and date each notation.)

Check here if you used an alternative procedure authorized by DHS to examine documents.

Date of Rehire (if applicable) Date (mm/dd/yyyy)	New Name (if applicable) Last Name (Family Name)	First Name (Given Name)	Middle Initial
---	---	-------------------------	----------------

Reverification: If the employee requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.

Document Title	Document Number (if any)	Expiration Date (if any) (mm/dd/yyyy)
----------------	--------------------------	---------------------------------------

I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.

Name of Employer or Authorized Representative	Signature of Employer or Authorized Representative	Today's Date (mm/dd/yyyy)
---	--	---------------------------

Additional Information (Initial and date each notation.)

Check here if you used an alternative procedure authorized by DHS to examine documents.

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Supplement B

Reverification and Rehire (formerly Section 3)

Last Name (Family Name) from Section 1.		First Name (Given Name) from Section 1.		Middle initial (if any) from Section 1.	
Date of Rehire (if applicable)		New Name (if applicable)			
Date (mm/dd/yyyy)	Last Name (Family Name)	First Name (Given Name)		Middle Initial	
Reverification: If the employee requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.					
Document Title		Document Number (if any)		Expiration Date (if any) (mm/dd/yyyy)	
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.					
Name of Employer or Authorized Representative		Signature of Employer or Authorized Representative		Today's Date (mm/dd/yyyy)	
Additional Information (Initial and date each notation.)				<input type="checkbox"/> Check here if you used an alternative procedure authorized by DHS to examine documents.	

Supplement B

LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
Acceptable Receipts May be presented in lieu of a document listed above for a temporary period. For receipt validity dates, see the M-274.				
<ul style="list-style-type: none">• Receipt for a replacement of a lost, stolen, or damaged List A document.• Form I-94 issued to a lawful permanent resident that contains an I-551 stamp and a photograph of the individual.• Form I-94 with "RE" notation or refugee stamp issued to a refugee.	OR	Receipt for a replacement of a lost, stolen, or damaged List B document.		Receipt for a replacement of a lost, stolen, or damaged List C document.

When Should Supplement B be Used?

- Should be used (1) when rehiring an employee within one year from the date of termination or within three years of the original date of hire, or (2) when re-verifying expiring employment authorization documents
- Not required to complete Supplement B in the event your employee's name or gender identity changes

What Needs to be Re-Verified?

- Only required to re-verify work eligibility – List A or List C documents
- Never required to re-verify identity (List B) documents!
- Do NOT reverify:
 - U.S. Passports or Passport Cards
 - Permanent Resident Cards (Green Cards)
 - List B Documents
- Permanent Resident Exceptions
 - ONLY reverify a Permanent Resident if the employee presents a Form I-94 with a temporary I-551 stamp or a foreign passport with a temporary I-551 stamp (a machine readable immigrant visa (MRIV))
- Reverify when employment authorization document (List A or List C) has an expiration date

Common Errors in Supplement B

- Overdocumentation
- Reverification not timely
- Incorrect document presented
- New expiration date missing or incomplete
- Employer fails to date and sign



GOLD MEDAL TIP

Not all receipt notices entitle an individual with an expired EAD an automatic extension of work authorization. You need to review the latest list of EAD categories that qualify for an automatic extension when completing Section 3.

Retention of Forms

- Must have a form for each active employee (hired on or after November 7, 1986)
- Keep separate from personnel and employee immigration files
- Track expiration dates of employment documents



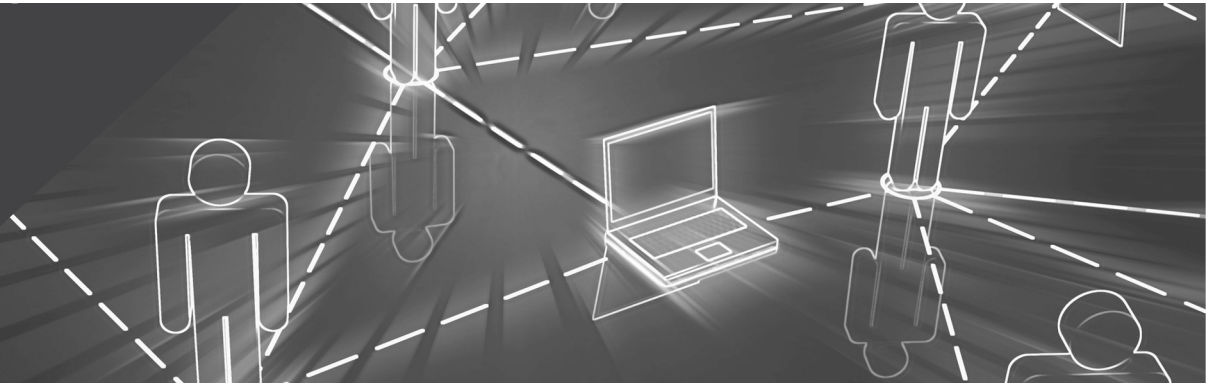
GOLD MEDAL TIP

Purge forms as soon as eligible!

And...E-Verify

Overview of E-Verify

What is E-Verify?



- A web-based system that allows enrolled employers to confirm the eligibility of their employees to work in the United States
- Based on a partnership between the Department of Homeland Security and the Social Security Administration
- Allows employers to verify the employment eligibility of newly hired employees and/or existing employees assigned to work on a qualifying federal contract (one that includes an E-Verify FAR clause)
- Not mandated federally...yet...except for some federal contracts
- Some states mandate employers to utilize E-Verify
- When an employer signs up to utilize E-Verify they sign an MOU with DHS regarding the responsibilities of utilizing E-Verify

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Employer Responsibilities

The Employer agrees:

- To provide the names, titles, addresses, and telephone numbers of the Employer Representatives to be contacted about E-Verify;
- That any Employer Representative will complete the E-Verify Tutorial before the individual creates E-Verify cases

The Employer also agrees to comply with current Form I-9 procedures with two exceptions:

- If an employee presents a “List B” identity document, the employer agrees to only accept “List B” documents that contain a photo.
- If an employee presents a Green Card, EAD card, U.S. Passport, or Passport Card, then the employer agrees to make a photocopy of the document and retain the photocopy with the employee’s Form I-9.
 - NOTE: The employer will use the photocopy to verify the photo and to assist DHS with its review of photo mismatches that employees contest.

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Revolutionizing Compliance:

E-Verify NextGen

- Pilot program – Spring 2024!
- Scheduled for 2024, E-Verify NextGen aims to fundamentally transform the employment eligibility verification process.
- Allegedly, E-Verify NextGen will streamline the Form I-9 and employment eligibility verification process into one “seamless” experience
- For the first time, the Form I-9 process will be integrated directly with E-Verify, streamlining the verification system
- The new process empowers new hires to input their information directly, moving the initial verification steps away from HR to the individual
- Transition, Not Replacement: For the foreseeable future, it is expected that employers will be able to choose between the traditional E-Verify process and the NextGen system



Innovations of E-Verify NextGen

- Self-Service Verification: New hires will use their myEverify accounts to enter biographic, citizenship, and document information, enhancing security and accuracy
- Remote Document Examination: Employers will be able to remotely verify documents after the system confirms identity and employment eligibility
- Error Reduction: Shifting data entry to employees may reduce the potential for errors and E-Verify mismatches.
- This approach aims to speed up case resolutions and provide a more private and secure process by minimizing employer involvement in mismatch resolution
- Will allow employees to carry their verification status between jobs
- E-Verify NextGen represents a significant evolution in the employment verification landscape, designed to make compliance more straightforward and secure for employers and employees

Q&A





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As the leader of the Business Immigration Law Team, Jimmy provides a wide array of legal services to employers and foreign employees seeking U.S. immigration benefits. His work includes numerous types of nonimmigrant visa cases, employment-based green card cases, and work before the U.S. Department of Labor in handling applications for permanent labor certification for hard-to-fill job positions. Jimmy communicates directly with clients and helps develop strategies that will meet an employer's business needs, consistent with the applicable requirements and regulations under U.S. immigration law.



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