

White Paper

The Form I-9 and E-Verify: Keys to Compliance



2017 Edition

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Many employers forget that the Form I-9 is a legal document, including attestations under penalty of perjury by both the employee and the employer. *The form is deceptive in its brevity; it is actually a complex form with a number of traps for unwary employers that can result in serious liability.*

As U.S. Immigration and Customs Enforcement (ICE) inspections become more frequent, fines become more prevalent, and E-Verify rules are being enforced by both the federal government and the states, employers must focus on compliance with the Form I-9 regulations and proper use of E-Verify. **This white paper is intended to give employers an overview of the Form I-9 and E-Verify requirements and to provide helpful pointers for ensuring compliance.**

The New Form I-9

On November 14, 2016, USCIS published a revised version of the Form I-9. Employers were required to begin using the new Form I-9 on or before January 22, 2017. **The new Form I-9 is available in two versions. One is a “smart” fillable .pdf with popup instructions and an error-checking feature.** This version of the form is meant to be downloaded from the USCIS website and completed on a computer. (It is not meant to be filled out in an internet browser.) This “smart” form is not an electronic I-9. It must be printed; it must be signed by the employee and employer representative; and the original must be retained.¹

The second version of the new Form I-9 should be printed and filled out by hand. It has the same appearance as the printed “smart” form but does not provide the same helper text or error-checking features.

¹ Note that electronic I-9 software may still be used by employers. USCIS guidance has caused some confusion about this. Electronic I-9s with electronic signatures are still acceptable and may be electronically stored. But the form provided by USCIS is not an electronic I-9.



VERSION ONE

is a “smart” fillable .pdf meant to be downloaded and completed on a computer but not on an internet browser.



VERSION TWO

should be printed and filled out by hand. It has the same appearance as Version One, but does not provide the same helper text or error-checking features.

Key changes to the Form I-9 include:

1. The “Other Names Used” field has been limited to “Other Last Names Used.”
2. Employees indicating that they are “alien(s) authorized to work” may now provide an A/USCIS number, an I-94 number, or foreign passport information. Previously, some individuals providing I-94 numbers were required to also provide passport data.
3. Entering a P.O. Box in Section 1 is no longer expressly prohibited. (Employers must continue to list physical addresses in Section 2.)
4. Employees must check a box indicating whether a preparer/ translator was used in completion of Section 1. This selection is likely to cause problems for many employers; while mandatory, it appears beneath the employee signature line in a gray box where it is likely to go unnoticed.
5. Additional fields have been made available for multiple preparers/translators when needed.
6. The number relating to the employee’s citizenship status must be listed at the top of Section 2 of the Form I-9. This is likely to cause confusion for many employers, particularly those who have still not become accustomed to completing the employee information at the top of Section 2.
7. An “additional information” box has been added to Section 2 of the form in the space below Lists B and C. This space was previously used by many employers for such “additional information,” but it has now been officially labeled by USCIS.
8. The signature date fields have been re-labeled to indicate “today’s date.” This may help clarify that the signatory should list the signature date in this field as opposed to a date of birth or the hire date.



9. Entering “N/A” has become mandatory for many fields in Section 1 (middle initial, “other last names,” apartment number, phone number, and e-mail address).

10. The “smart” version of the Form I-9 provides drop-down menus in the document fields to assist employers in selecting the appropriate document title and issuing authority.

11. The instructions for the Form I-9 are now 15 pages in length. The additional pages are due largely to the addition of detailed suggestions relating to document title abbreviations. The instructions also include warnings to the employee, employer, and preparer/translator about false statements on the Form I-9; detailed instructions relating to receipts; instructions for the “additional information” field; and warnings about requests for specific documentation and/or more documentation than is required.

12. The new Form I-9 automatically populates “N/A” in many fields, helps ensure document title and issuing authority consistency, and provides an error-checking feature. Some, however, have expressed frustration about the technological requirements for use of this form version; many have been unable to open the “smart” form and will have to use the printable version.

The Form I-9

The release of the new Form I-9 has changed the way that the form may be completed, but the basic I-9 requirements have not changed. The Form I-9 is a form that all employers in the U.S. are required to complete with every new hire who will perform work in exchange for pay (monetary or otherwise) in



the U.S. The form is only required for those employees hired after November 6, 1986. (For those hired on or before that date and continuing in their employment since that time, no Form I-9 is required, and employers generally should not complete one.)

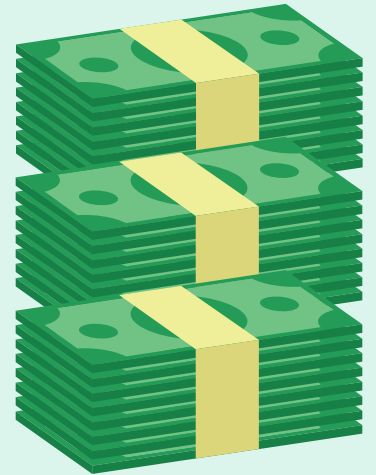
U.S. Immigration and Customs Enforcement (ICE) is the agency within the Department of Homeland Security that enforces the I-9 regulations through targeted inspections of employers.

ICE inspections can result in civil fines for paperwork violations ranging from \$110-2,156 per I-9, civil fines for knowingly employing or continuing to employ unauthorized workers ranging from \$375-21,563 per employee, possible criminal prosecution (which can lead to fines and/or imprisonment), and/or referral to other agencies for additional investigations.

Because serious fines can result from I-9s with seemingly minor flaws, even when the employer in question is not found to employ a single unauthorized worker, it is imperative that employers implement and follow consistent I-9 policies, provide comprehensive training, and require that only trained individuals participate in the I-9 process as employer representatives. Employers may also have I-9s audited by an I-9 expert who can advise the company on proper remediation techniques that can help employers avoid fines.

Section One

The Form I-9 is made up of three sections. The first must be completed by the new hire (the employee) on or before the first day of work for pay, but only after a job has been offered to the employee and the employee has accepted the job. Section 1 of the form includes personal information about the employee:



name, address, date of birth, Social Security number (an optional field for non-E-Verify employers), e-mail address (optional), and telephone number (optional). It also asks the employee to attest, under penalty of perjury, to his citizenship status (U.S. citizen, non-citizen national, lawful permanent resident, or “alien authorized to work”) and, depending on his status, to provide information such as the expiration date of employment authorization, alien (USCIS) number, I-94 (admission) number, or foreign passport information. The employee must sign and date Section 1 of the Form I-9.

Note that the optional fields (Social Security number, e-mail address, and telephone number) are to be provided at the employee’s discretion. The employer must not require employees to provide this information or prohibit employees from providing it. The only exception is that an E-Verify employer must require that employees provide Social Security numbers on the Form I-9.

Section Two

Section 2 of the I-9 must be completed by the employer or the employer’s authorized representative on or before the third business day after the new hire’s first day of work for pay. To complete Section 2, the employer (or its authorized representative) must review original documentation presented by the employee to prove identity and employment authorization. The Form I-9 itself includes “Lists of Acceptable Documents” on the final page; employees are expected to present a single document from List A or a combination of two documents, one from List B and one from List C. The employer must review the



documentation to ensure that it meets the I-9 requirements and that it appears to be genuine and to relate to the employee. The employer is required to record information from the documents (document title(s), issuing authority/authorities, document number(s), and expiration date(s)), together with the employee name and citizenship status, date of hire, employer name, employer address, and name and title of the person reviewing the documentation. (Note that the document information must be recorded on the form even if copies of the documents presented are made and retained with the Form I-9.) Then the employer representative must sign and date the form, attesting under penalty of perjury that (1) he reviewed the documentation presented by the employee, (2) the documentation appeared to be genuine and to relate to the employee, and (3) to the best of his knowledge, the employee is authorized to work in the U.S.

Employers must remember that original documents are required. Copies, scans, and faxes are unacceptable, and documents cannot be reviewed via videoconference. For remote hires, employers must implement a protocol to ensure that the I-9 is properly completed by an employer representative or that an agent is appointed to complete the I-9 on the employer's behalf.

Section Three

The third section of the Form I-9 is only required when an employee's work authorization is set to expire, at which time the employer is required to "reverify" the individual's employment authorization. Section 3 may also be used when an employee is rehired within 3 years of the original date of hire and/or when an employee's name changes. Employers may opt, in lieu of using Section 3, to complete new Forms I-9 for all rehires. Completing Section 3 for name changes, while a best practice, is not a legal requirement.

Best Practice Tip

→ Original documents are required. Copies, scans, and faxes are unacceptable, and documents cannot be reviewed via videoconference.

→ For remote hires, employers must implement a protocol to ensure that the I-9 is properly completed by an employer representative or that an agent is appointed to complete the I-9 on the employer's behalf.



Note also that, for name changes, the Form I-9 does not require presentation of documentation as evidence of the name change (though corporate best practices might require presentation of documentation for payroll or other purposes).

Copying Documents

Employers must make a policy decision: to make and keep copies of the identity and work authorization documentation presented by employees, or to not make and not keep the copies. The policy must be followed consistently for all new hires.

For employers that use E-Verify, copies must be made and retained if certain documents are presented by the employee: the U.S. passport, passport card, employment authorization card, or green card. Because it is generally easier to make copies of everything than to remember which documents must be copied, and because documents are periodically added to the E-Verify “copy list,” E-Verify employers often opt for a blanket policy of making and keeping copies of documents.

Keeping copies turns certain I-9 violations (such as a missing issuing authority or document number) from so-called substantive violations into technical violations. In the event of an ICE inspection, an employer that makes a good faith attempt to comply with the regulations will be given 10 days to correct technical violations (and to avoid fines if the violations are corrected). The same time period is not given for substantive violations.



Copies of documents may also help an employer to prove that he did not know (and had no reason to know) that a particular employee lacked work authorization. On the other hand, copies could be used by ICE or a prosecutor as evidence that an employer should have known that the employee lacked work authorization.

For these reasons, an employer should consult with an attorney to determine which policy best suits the company's needs.

Retention

The Form I-9 must be kept on file for all active employees (hired after November 6, 1986). For former employees, the form must be kept for **the longer of** 3 years from the date of hire or 1 year from the date of termination, after which they may be destroyed. Most attorneys recommend destroying I-9s that are outside of the required retention period so that they are not provided to U.S. Immigration and Customs Enforcement (ICE) auditors in the event of an ICE inspection. Employers should include a specific statement relating to I-9 forms in their document retention policies, and I-9s should not be destroyed for former employees who are the subject of ongoing litigation.

The Form I-9 should not be kept in the personnel file but in a separate file or binder specifically for I-9s, copies of documents presented for I-9 purposes, and E-Verify printouts. Separating the I-9 file helps to limit the risk for discrimination and to ensure that I-9s can be promptly located in the event of an ICE inspection.

I-9 forms contain personally identifiable information (PII) and should be securely stored.

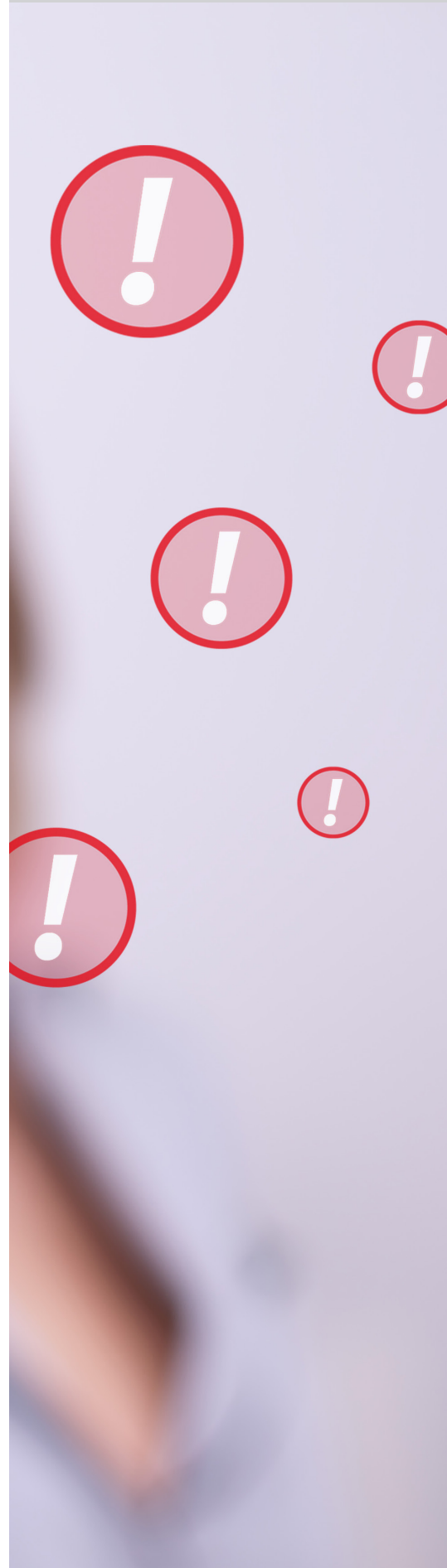
“ The Form I-9 should not be kept in the personnel file but in a separate file or binder specifically for I-9s, copies of documents presented for I-9 purposes, and E-Verify printouts. ”



Most Common Errors

The most common mistakes on the Form I-9 include:

1. Failure to complete the form (or to retain it);
2. Failure of the employee to sign Section 1 or of the employer to sign Section 2;
3. Failure of the employee to check a citizenship status box in Section 1;
4. Failure to complete and/or date the Form I-9 on time;
5. Failure of the employee to complete the middle initial, "other last names used," apartment number, e-mail, and phone number fields in Section 1 (or list "N/A");
6. An incorrect date of birth in Section 1;
7. Missing or incorrect expiration dates for aliens authorized to work in Section 1;
8. Missing or incorrect Alien (USCIS) or Admission (I-94) numbers in Section 1;
9. Overdocumentation (collection/recording of "extra" documentation in Section 2);
10. Failure to review original documents;
11. Failure to review appropriate documents as proof of identity and employment authorization;
12. Failure to properly correct mistakes on the Form I-9 (failure to initial and date, use of white out, allowing the improper person to correct an error, and/or failure to review documentation when required);



13. Failure to record the document information on the correct lines in Section 2; and

14. Failure to follow a consistent document copying policy (to make and keep – or to not make and keep - copies of the documents presented by employees).

Comprehensive, annual I-9 training can help employers to avoid these mistakes and can help to demonstrate a good faith attempt to comply with the I-9 regulations in the event of an ICE inspection. Employers may also consider use of a compliant electronic I-9 software system to assist them in ensuring compliance. Employers should speak with an immigration attorney before selecting a vendor, as not all electronic I-9 software complies with the relevant regulations.

Discrimination Risks

Throughout the I-9 process, employers must be careful to avoid discrimination. The immigration laws prohibit discrimination based on national origin or citizenship status, including discrimination based on an individual's foreign appearance or accent. To avoid the appearance of discrimination:

- Employers must allow employees to choose which document or documents they will submit for I-9 purposes (so long as those documents satisfy the I-9 requirements). Employers must not ask for a specific document or documents.

“Employers may also consider use of a compliant electronic I-9 software system to assist them in ensuring compliance.”



- Employers should not complete the I-9 process until a job has been offered to the employee and accepted by the employee.
- Employers should not reject documentation that reasonably appears to be genuine and to relate to the employee presenting it.
- Employers should not reverify expiring green cards (so long as the cards were unexpired at the time presented).
- Employers must not require that lawful permanent residents (1) present green cards for I-9 purposes or (2) show green cards to allow the employer to confirm accuracy of the Alien (USCIS) number provided in Section 1 of the Form I-9.
- Employers may ask prospective employees whether they are authorized to work in the U.S. and whether they need or will in the future need sponsorship for employment authorization. Employers should generally not inquire as to a prospective employee's national origin (country of birth) or citizenship status during the interview process.

ICE Inspections

An employer is usually notified that it will undergo an ICE inspection by an ICE officer or auditor in person, though notice is sometimes provided by telephone, e-mail, or regular mail. In most cases, an employer is entitled to a minimum of 3 days after receiving the Notice of Inspection before it is required to present I-9s to ICE.

Generally:

- Employers are required to present original I-9s to ICE. They may be presented in person at the company location or at the ICE office or may be mailed or sent via overnight or courier delivery. ICE should provide a receipt for the original I-9s and include the number of original I-9s received. Employers should make and keep a complete copy of the forms provided to ICE.



- Employers may be asked to provide additional information or documentation, such as payroll lists, articles of incorporation, tax information, and information about Social Security Administration “no-match” letters or prior ICE inspections.
- ICE will review the I-9s and return one or more of the following types of notices:
 - » A Notice of Suspect Documents, which indicates that ICE believes certain employees lack work authorization. Employers are required to meet with the subject employees, terminate the employment of those who are not authorized to work, and provide documentation to ICE relating to those who appear to be work-authorized. Employers typically have 10 days to complete this process.
 - » A Notice of Technical and/or Procedural Failures, which indicates that certain paperwork errors exist but that ICE is providing the employer with a period (usually 10 days) to correct those violations. If corrected, the employer will not face fines for the technical violations at issue (but may still face fines for other, substantive issues).
 - » A Notice of Inspection Results, indicating that the employer was found to be in compliance with the I-9 regulations and that no further investigation is necessary.
 - » A Warning Notice, indicating that substantive violations were identified but that fines were not deemed necessary. A Warning Notice usually sets a date for a follow-up inspection. If errors are identified on ICE’s return, fines usually follow.



» A Notice of Intent to Fine, indicating that ICE will seek monetary sanctions for paperwork violations and/or for knowing hire violations. Once a Notice of Intent to Fine is issued, the employer has 30 days in which to request a hearing. If no hearing is requested, the notice automatically becomes final, and the employer must pay the fines sought. If a hearing is requested, the employer may negotiate with ICE and settle on a lower fine amount or may engage in litigation to have the fine amount reviewed by an administrative law judge.

- ICE follows a strict matrix for determining fine levels in the event that fines are deemed warranted. For the government's fine matrix, see the Form I-9 Inspection Overview, available at <http://www.ice.gov/news/library/factsheets/i9-inspection.htm>. (Note that, at the time of publication, the fine matrix had not been updated to reflect the higher fines announced in 2016 and described above.)

Electronic I-9s

Employers may opt to complete and maintain original paper I-9s, store I-9s electronically, and/or electronically complete and sign I-9s. But it is important to note that **merely scanning I-9s and retaining .pdf copies will generally not satisfy the I-9 regulations**. Note also that **the new “smart” form I-9, which can be completed (but not signed) on a computer, and which provides certain error-checking features, is not an electronic I-9 under the regulations**. The regulations governing electronic completion, signature, and storage of the Form I-9 are complex, and a failure to comply with the regulations may result in massive fines. Any employer considering electronic storage or completion should speak with an attorney and have the electronic process or software reviewed for compliance.

Best Practice Reminders

- Merely scanning I-9s and retaining .pdf copies will generally not satisfy the I-9 regulations.
- The new “smart” form I-9, which can be completed (but not signed) on a computer, and which provides certain error-checking features, is not an electronic I-9 under the regulations.



Good electronic I-9 systems will minimize an employer's risk for paperwork violations, ensure that I-9s are not lost, include calendaring systems so that reverification deadlines are not missed, provide a seamless integration with the E-Verify system, and will ensure data security. But a flawed system may actually increase an employer's risk for fines based on I-9 violations and increase the risk for discrimination charges.

A few key items to remember about electronic I-9s:

- Electronic signatures must “include a method to acknowledge that the attestation to be signed has been read by the signatory” and must “create and preserve a record verifying the identity of the person producing the signature.” This is one of the most important items to consider, as a non-compliant signature may be treated as no signature at all, effectively voiding the I-9.
- Detailed audit trails must be included so that “whenever the electronic record is created, completed, updated, modified, altered, or corrected, a secure and permanent record is created that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.”
- The form instructions must be provided to the employee.
- The form content and data elements must generally remain unchanged and in the same order as on the paper form.
- Government agencies have not been able to agree as to whether pre-population of I-9 fields is allowable or whether it is appropriate for an electronic I-9 system to limit the lists of acceptable documents based on an employee's citizenship status. As such, most employers will want an electronic I-9 that provides flexibility with regards to these options or a vendor that does not allow pre-population or list-limiting.



E-Verify

E-Verify is a free, web-based system provided by the Department of Homeland Security that allows employers to confirm that the information provided by an employee on the Form I-9 matches government databases.

While use of E-Verify is generally voluntary, many employers are required by state or local law, or status as a federal contractor, to use the system. Additionally, Congress is currently considering legislation that, if it becomes law, would phase-in mandatory use of E-Verify for virtually all employers nationwide. With the government's increased scrutiny of the private sector workforce and with ever-expanding E-Verify obligations, it is imperative that employers become familiar with E-Verify's basic rules and begin to plan for administrative changes in the event that use of the system becomes mandatory.

An I-9 Substitute?

Not yet. E-Verify is to be used in addition to, not instead of, the Form I-9. E-Verify queries may only be run after Sections 1 and 2 of the Form I-9 are completed.

Benefits of Using E-Verify

E-Verify users experience a number of benefits, including increased peace of mind that they are employing an authorized

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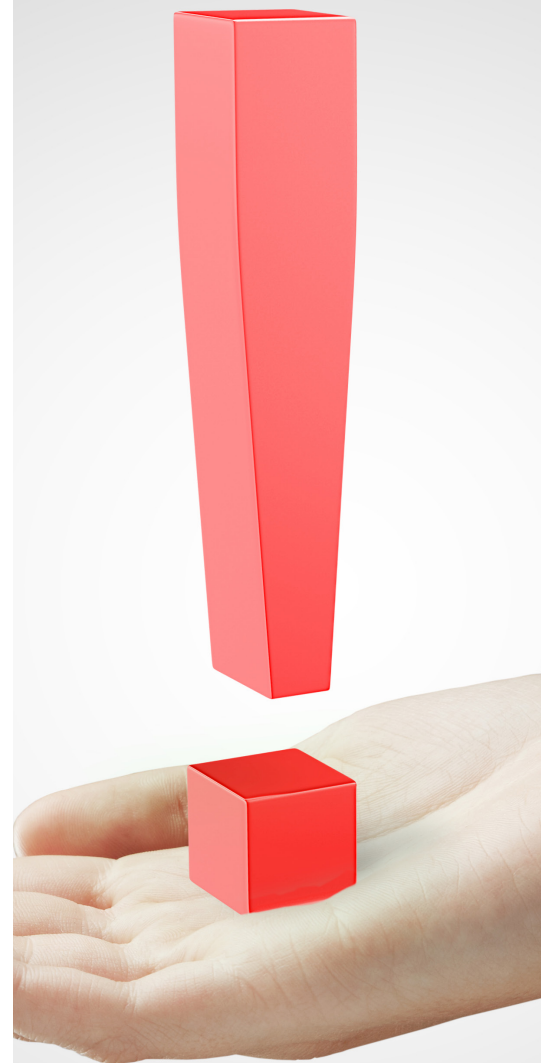
work force, a limited “safe harbor” if an E-Verified employee lacks work authorization, a lower chance of receiving SSA “no-match” letters, and the ability to help certain foreign employees extend their work authorization using the so-called “STEM Extension.” Using E-Verify also helps employers demonstrate good faith by showing that they are going above and beyond what is legally required to ensure an authorized workforce.

Risks of Using E-Verify

While there are appealing benefits, E-Verify presents risks as well. E-Verify requires employers to take information that would otherwise remain in a filing cabinet and feed it directly to the federal government. This can result in inspections or investigations by ICE, the Department of Justice, and/or E-Verify’s Monitoring and Compliance branch. The E-Verify system is not perfect and may indicate that a new hire is not authorized to work when he is, or that he is authorized to work when he is not, creating confusion and the potential for law suits. And while there is no charge for use of E-Verify, it is not truly free, as it requires dedication of administrative resources for training, system administration, monitoring of queries, and working through the tentative nonconfirmation process. It also results in the termination of employees who are not authorized to work, but often only after the employee has been trained and has been working for the employer for 2-3 weeks; turnover is not cheap, much less free.

Registration for E-Verify

Registration to use E-Verify can be completed online. At the end of the registration process, the E-Verify system will issue a Memorandum of Understanding (MOU) to be agreed to by



the employer. There are multiple registration configurations available; it is generally recommended that employers work with legal counsel to ensure that registration is properly completed. Employers may also opt to use a vendor, such as an electronic I-9 provider, to access the E-Verify system.

For large organizations comprised of numerous legal entities, a number of registration options exist. Where the organization operates as a single employer, it may be possible to use E-Verify under a single registration and MOU. For many organizations, however, it makes more sense to register using the Corporate Administrator method, which allows a central point of contact oversight over various legal entities, or using the Employer Agent method, which makes it easier for a central resource to run queries for separate legal entities using a single login.

Use of E-Verify

Each employer representative who will submit verification requests must complete the online E-Verify tutorial before initiating any requests.

E-Verify employers must post the provided DHS and DOJ notices (in both English and Spanish) at each hiring site so that they are clearly visible to prospective employees. If an employer utilizes an online application system, it should provide the notices to applicants at the time that they apply for positions by posting them online.

Once an employer is registered for E-Verify, it must use the system to confirm the employment eligibility of every new hire at every registered hiring site. An employer must not use E-Verify for those hired before its registration date (unless those employees are assigned to work under a federal government contract or subcontract that requires that their information be submitted to the E-Verify system).



Verification must be initiated within 3 business days after the employee's first day of work for pay. (The deadline is the same as the deadline for Section 2 of the Form I-9: Thursday for someone hired on a Monday.)

If a "List B" document is used by the employee during the I-9 process, the employer may only accept it if it contains a photograph.

If an I-551 (Permanent Resident Card), I-766 (Employment Authorization Document), or U.S. Passport or Passport Card is used by the employee during the I-9 process, the employer must retain a copy.

Typically, verification may only be completed for **new hires**. If the employer is not required to complete a form I-9 for an employee (and does not do so), it should generally not submit that employee's information for verification. As noted above, this rule is different for federal government contractors, who are required to use E-Verify for employees assigned to work under certain federal government contracts. The rule is also different for rehires. The Department of Homeland Security indicates that a rehire should generally be treated as a "new hire" for E-Verify purposes, though this rule has become less clear over time. Employers should consider speaking with an attorney to obtain guidance on rehires.

If an employee is returning from certain **layoffs, a strike, a lockout, or authorized leave**, he is probably not a "new hire."



A new I-9 does not need to be completed for this employee, and the employee's data should not be submitted to the E-Verify system. However, to show that the employee is not being "hired," the employer must be able to establish that the employer and the individual employee reasonably expected that the employee would resume employment at all times after the beginning of the layoff, strike, lockout, or authorized leave.

If an employee is transferred from one worksite to another (but continues to work for the same employer), a new I-9 generally should not be completed, and that employee's information generally *must not* be entered into E-Verify. Note that this transfer provision must not be manipulated to avoid the use of E-Verify.

If an employee is transferred from one employer to another (depending on the circumstances, this may apply when an employee transfers from one legal entity to another – even within the same corporate organization), a new I-9 generally must be completed. If that employee has been transferred to a worksite that is registered for E-Verify, his information must be entered into the verification system.

Results

Once an employer inputs an employee's I-9 data into the E-Verify system, the system will (within seconds) return one of several results. The most common are: "Employment Authorized," "SSA (or DHS) Tentative Non-Confirmation," or "DHS Verification in Process." "DHS Verification in Process" results typically convert to "Employment Authorized" or to a "Tentative Non-Confirmation" within 24 hours.

+ ABC HOSPITAL



+ ABC HOSPITAL



+ ABC HOSPITAL



XYZ HOSPITAL



Employment Authorized: this indicates that the employee is authorized to work. The employer must close the query, then record the verification number generated by E-Verify on the employee's I-9 form or print out the verification page and retain it with the form I-9. No further action is necessary.

SSA/DHS Tentative Non-Confirmation: this indicates that the information provided by the employee does not match the government's database(s). When a Tentative Non-Confirmation (TNC) is received, the employer must print a Further Action Notice (FAN) from the E-Verify system and review it with the employee. The employee has the option to contest the TNC or not to contest the TNC. The employee must indicate on the FAN whether he or she will contest the TNC. The employer and the employee must sign the TNC notice. The original must be retained with the I-9 and a copy provided to the employee.

If the employee chooses not to contest the TNC, it is considered a final non-confirmation of employment authorization, and the individual's employment should be terminated.

If the employee chooses to contest the TNC, the employer must use the E-Verify system to generate a Referral Date Confirmation (RDC), which provides a deadline (8 government working days from the time the confirmation is generated) by which the employee must contact the appropriate agency to resolve the discrepancy. Instructions for contacting the agency are provided in the FAN. A copy of RDC must be retained in the I-9 file and the original provided to the employee.

Every employee receiving a TNC must be provided the opportunity to contest it. An employee who has contested a TNC must not face adverse employment action based on the TNC and must be allowed to work during the TNC process.



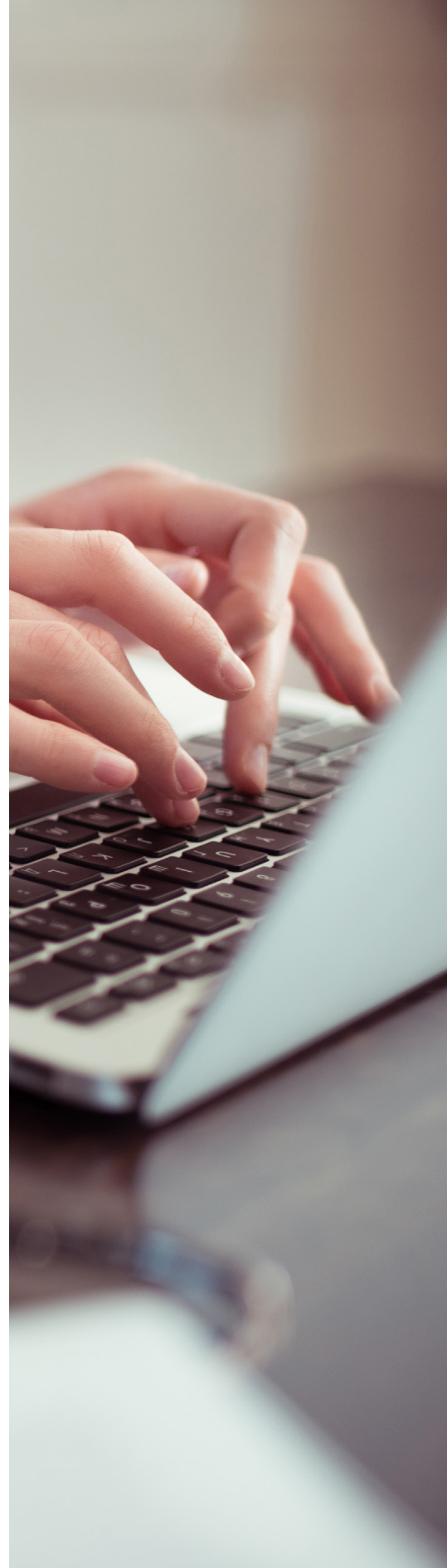
E-Verify will automatically update once the TNC is resolved or once it is determined that the discrepancy is not resolvable. At that point, the status of the verification will change to “Employment Authorized,” “Final Non-Confirmation,” or “Review and Update Employee Data then Resubmit.”

Final Non-Confirmation: Unless the employer knows the final non-confirmation to be in error and contacts DHS to appeal the finding, the employer should terminate the employee’s employment. The employer must indicate in the E-Verify system whether the employee was termed and must close the query.

Review and Update Employee Data then Resubmit: The data originally input into the system may not have been correct. Review the social security number and other information on the Form I-9 and in the E-Verify system carefully, make any necessary changes, and resubmit the E-Verify inquiry. At the end of the E-Verify process, the employer should record the E-Verify case number on the Form I-9 and/or print the case verification sheet and retain it with the Form I-9.

Conclusion

The I-9 and E-Verify processes are complex and can be costly. Employers are encouraged to seek legal assistance to ensure compliance, provide comprehensive training, implement clear policies, and devise a government investigation response protocol for handling an ICE or similar inspection. Electronic solutions may go a long way to prevent violations and to make the processes easier, but employers should proceed with caution and ensure that any solution utilized is a compliant solution.



About the Author

Nici Kersey

Nicole A. ("Nici") Kersey is the Managing Director of Kersey Immigration Compliance, LLC. She is an attorney whose practice focuses on the Form I-9, E-Verify, and related immigration compliance issues. Ms. Kersey partners with law firms, businesses, and other employers to provide advice, project management, and consulting services to organizations of all sizes to help them avoid civil and criminal penalties, as well as ancillary damage to reputation, caused by weaknesses in their immigration-related hiring and record-keeping practices. She provides training, policies, and auditing services and represents employers during I-9 inspections and settlement negotiations.



About PreCheck

PreCheck, Inc. was founded in 1983 as a background investigation services firm. Responding to the healthcare industry's need for background investigation services, the company started focusing on the specialized requirements of hospitals, clinics and other healthcare providers in 1993. Our client-focused business approach has allowed the company to develop products to meet the growing and evolving needs of the healthcare industry.

PreCheck is now the largest provider of background and credentialing services to the healthcare industry and has expanded its services to assist hospital executives, healthcare human resources and compliance professionals, medical staffing managers, and clinical program directors with other essential functions. Our suite of products includes outsourcing solutions for license management, health and drug screening, exclusion and sanction screening, immunization tracking, and online I-9 and E-Verify processing.



PreCheck's Electronic I-9 Form Software

For any employer, the Form I-9 is a complex form with several traps that can result in serious liability. As U.S. Immigration and Customs Enforcement (ICE) inspections become more frequent and fines become more prevalent, employers must focus on I-9 and E-Verify compliance.

I-9Ensure

Simplify I-9 Compliance and Automate E-Verify Processing.



That's why PreCheck's I-9Ensure electronic Form I-9 system is fully integrated with E-Verify. In one fluid process, your candidates can complete the Form I-9 online, store supporting documentation electronically, as well as submit to E-Verify.

Visit www.PreCheck.com/I9Ensure to learn more.

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