

THE INSIDE PERSPECTIVE

LABOR AND EMPLOYMENT LAW SOLUTIONS FOR EXECUTIVES AND HR PROFESSIONALS



SMITH MOORE LLP
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The I-9 Form: Not Such a Routine Document Anymore

The Employment Eligibility Verification Form (I-9) has been part of the hiring process for nearly twenty years now, but never has immigration compliance been as important as it is today. The Bush Administration has charged new federal agencies with authority to impose civil and criminal penalties upon those who employ unauthorized workers. Form I-9, if completed properly, can provide protection against liability to an employer if it turns out that an employee should not be working in the U.S.

In reviewing your I-9 compliance, remember the following:

- An I-9 must be completed for employees hired after November 6, 1986.
- If the employee cannot understand or read English, a translator should be used. The translator and the employee must sign and date Section 1.
- Section 1 of the I-9 asks the employee to identify his or her status in the United States, including any work expiration date. Lawful permanent residents (“green card” holders) should not enter any expiration date in Section 1. The date that a green card expires has no effect on work authorization, which does not expire for green card holders.
- Section 2 of the I-9 relates to proof of identity and work authorization. Employees must make their own choices from the list of acceptable I-9 documents and may produce either one document from List A or two documents—one from List B and one from List C.
- For Section 2, employees should not present a Social Security card that begins with the 800 or 900 series or that includes any series of numbers that is only zeros, because no such cards exist.
- When the company representative reviews Section 2 of the documentation provided by the employee, he or she must make sure that it appears to be genuine and to pertain to the employee.
- Section 3 reverification is required when an employee’s work authorization expires. The employee’s I-9 form must be updated before the date that his or her work authorization expires.
- Employers must keep each employee’s I-9 form for the full period of employment and for one year thereafter. If that period totals less than three years, the records must be kept until three years from the date of hire.

TIP

Because there are civil and criminal penalties for immigration violations, carefully completing and reviewing I-9 forms is a must. At least one employee should be trained to manage the process for new hires and to keep records up-to-date for existing employees.



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