



# INTERNAL I-9 AUDIT GUIDE



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# INTERNAL SELF AUDIT CHECKLIST

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According to the Immigration Control and Reform Act of 1986, employers may only hire persons legally eligible to work in the United States (including citizens and nationals of the U.S., and aliens authorized to work in the U.S.). The employer must verify the identity and employment eligibility of anyone being hired, which includes completing the Employment Eligibility Verification Form (I-9). Employers must retain each Form I-9 for at least three years, or one year after employment ends, whichever is longer.

Internal I-9 audits assist with regulatory compliance, and should be performed to review, evaluate, and improve hiring procedures. Before beginning the internal audit, it's imperative that your company establish procedures to ensure the audit is conducted in a non-discriminatory manner. It is illegal for employers to discriminate on the basis of race or national origin, and mishandling an internal audit can create the appearance of discriminatory practices and the potential for discrimination charges. Your internal I-9 audit should be done consistently, thoroughly, annually, by a knowledgeable staff member, and in an unbiased fashion.

The review should concentrate on key problems that frequently arise during the completion of the Form I-9. Additionally, it is critical that the individual conducting the audit is familiar with: the M-274; the Form I-9 requirements; the risks and pitfalls; the terminology; and the internal corporate process and policy of storing Form I-9 records.

## Conducting the Audit

**Unbiased** - Make sure the selection of I-9 forms for an internal audit is not based on the employee's race or national origin. Either audit all forms, or audit a truly random sample of forms. A company may not selectively choose which forms to audit.

**Annual** - Conduct annual audits. This provides a defense against allegations of targeted internal I-9 auditing. Internal audit processes should mimic government compliance audit processes. This not only verifies I-9 forms on file, but it also trains the human resources department for actual government compliance audits.

**Consistent** - Either keep copies of all I-9 verification documents, or none of them. If your records are not complete, then you must either obtain missing documentation, or destroy all collected verification documents. Currently, Colorado is the only state that requires employers to maintain copies of all. NOTE: Employers enrolled in E-Verify are required to retain a copy of the U.S. Passport/Passport Card, Permanent Resident Card (I-551) or the Employment Authorization Card (I-766), if provided by the Employee as a List A document.

**Knowledgeable** - Designate an I-9 Officer or Company Representative, responsible for knowing and applying Form I-9 rules. The authorized I-9 Officer should achieve the following: be well-versed on the correct completion of the Form I-9; develop and enforce a compliance program; create and implement internal training procedures; conduct regular internal audits; and have a plan of action in place in case of an ICE audit.

**Thorough** - An internal audit should include an in-depth review of all of a company's I-9 forms. Considering companies' limited resources and time, a comprehensive review of all I-9 records may not be feasible. In this case, companies are encouraged to review a significant and fair sample of I-9 forms in determining where the majority of errors/omissions occur, how to correct these, and how to implement better training and policies to ensure proper completion and compliance.

# MINIMUM AUDIT CHECKLIST ITEMS

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## Needed for Audit

- List of current employees hired after November 6, 1986
- List of employees terminated in past three years
- Original or electronic copies of all I-9 forms (both current employee forms, as well as forms for terminated employees within current retention requirements).
- M-274 Handbook for Employers published by the USCIS (optional)
- Compare lists of current and terminated employees with I-9s to identify whether an I-9 is on file for each employee.

## Section 1.

### Employee Information

- Employee first and last names completed
- N/A for “Other Names Used” if it does not apply; maiden name or other names if it is applicable. This is a mandatory field on the current Form I-9 version.
- Full address fields completed – No PO Boxes allowed
- Date of birth in mm/dd/yyyy format
- Social Security number (optional); Social Security number mandatory for E-Verify participants

### Citizenship/Immigration Status

- Status is selected (not more than one)
- Lawful Permanent Resident – including alien registration number
- An Alien Authorized to Work – the work until date, alien number or admission number must be included and correctly stated
- Expiration date of employment authorization is included and correctly stated

### Employee’s Attestation

- Employee’s signature
- Date of employee’s execution of form
- I-9 not signed on date or hire (first day of employment)

### Preparer/Translator Certification

- Signature of preparer/translator if applicable
- Name of preparer/translator correctly stated
- Address of preparer/translator correctly stated

# MINIMUM AUDIT CHECKLIST ITEMS: SECTION 2

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## Section 2.

One document from List A is included and completed OR one document from List B AND one from List C are listed and completed.

### List A (Identity and Employment Authorization)

- Appropriate document listed
- List A document title correctly stated
- List A document issuing authority correctly stated
- List A document number correctly stated
- List A document expiration date, if applicable, correctly stated
- Receipt showing application for document accepted; awaiting original to be presented within 90 days

### List B (Identity)

- List B document title correctly stated
- List B document issuing authority correctly stated
- List B document number correctly stated
- List B document expiration date, if applicable, correctly stated
- Receipt showing application for document accepted; awaiting original to be presented within 90 days

### List C (Employment Authorization)

- List C document title correctly stated
- List C document issuing authority correctly stated
- List C document number correctly stated
- List C document expiration date, if applicable, correctly stated
- Receipt showing application for document accepted; awaiting original to be presented within 90 days

### Employer's Certification

- Employee's first day of employment correctly stated (mm/dd/yyyy)
- Signature of Employer/Authorized Representative present and in correct box
- Date of certification correctly stated (mm/dd/yyyy)
- Certification signed within three days of hire (from the first day of employment)
- Title of Authorized Representative correctly stated
- Last Name and First Name of Authorized Representative correctly stated
- Employer's Business or Organization Name correctly stated
- Address of business correctly stated - No P.O. Boxes allowed

# MINIMUM AUDIT CHECKLIST ITEMS: SECTION 3

## Section 3.

- Reverification only applies if evidence of employment authorization (List A or List C document) presented in Section 2 expires.
- Do not reverify: US Citizens and noncitizen nationals, or Lawful Permanent Residents (I-551)
- If employee listed an expiration date in Section 1, employment eligibility reverified on or before expiration date
- Date of rehire, if applicable (mm/dd/yyyy)
- New name listed, if applicable
- Document title correctly stated
- Document number correctly stated
- Employment authorization document Expiration Date (mm/dd/yyyy)
- Signature of Authorized Representative present and correctly placed
- Date of company certification (mm/dd/yyyy)
- Printed name of Authorized Representative

## Missing I-9s

- For current employees* - require employee to present documentation and complete I-9 with current dates. Date of hire will be the employee's actual date of hire, which may have been years earlier. Attach a memo to the I-9 explaining the discrepancy between the date of hire and the date of completion of the Form I-9. Sign and date the memo.
- For former employees* - date and attach a memo to I-9s for any terminated employees with missing or incorrect I-9 information. Retain it with other I-9 forms. Documenting this demonstrates an employer's good faith effort to correct I-9s by performing an internal self-audit.

## I-9s with Errors

- Easily correctable* - you may do so on the form. The best way to correct the Form I-9 is to line through the portions of the form that contain incorrect information (preferably in a contrasting ink color), then enter the correct information. Initial and date your correction. Never use white correction fluid. If you have previously made changes on Forms I-9 using white correction fluid instead, USCIS recommends that you attach a note to the corrected Forms I-9 explaining what happened. Be sure to sign and date the note.
- Not easily correctable* - complete a new Form I-9.
- The old I-9 is attached to the new I-9, along with a note explaining the reason for creating a new I-9. **Do not throw away the old I-9.**

# MINIMUM AUDIT CHECKLIST ITEMS: MISCELLANEOUS

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## *Miscellaneous.*

- Photocopies of List 2 documents** - if they exist, are attached to the I-9 and are readable. It is not mandatory to make photocopies, but if they are made, they must be kept. And if photocopies are made for one employee, they must be made for all employees.
- Employers enrolled in E-Verify must keep copies of the following documents if they are presented by the employee** - US Passport or Passport Card, Permanent Resident Card (I-551), or Employment Authorization Card (I-766).
- Manual Audit Log** - The list of the I-9s containing errors is completed. (This is the audit log that shows you have made a good faith effort to ensure I-9 compliance. The log should contain three columns: employee's name, the errors, and the actions taken to rectify the error.)



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