

# How to fill out an I-9

The COVID-19 pandemic greatly changed how many businesses operate. But whether your organization remains remote, brought everyone back on site, or adopted a hybrid arrangement, I-9 form compliance remains a must. Form I-9 has been an onboarding staple in the United States since the Immigration Reform and Control Act of 1986 mandated its usage. An employer must use an I-9 form (also known as an Employment Eligibility Verification Form) to confirm identity and employment authorization for each person hired.

While I-9 forms are not filed with the federal government, authorized officials from the U.S. Department of Homeland Security (DHS), Department of Labor (DOL), or Department of Justice (DOJ) may request to see them. Thus, employers must be ready to produce accurate, complete I-9 forms that prove identity and legal work status.

Such preparation is particularly important in today's political climate. Enforcement of employment laws is on the rise as part of an overall emphasis on immigration reform. Employers failing an I-9 audit face hefty fines and other sanctions. Here, we take a closer look at how to fill out an I-9 form:

## Considerations when completing Form I-9

Filling out an I-9 form is a joint effort between an employer and a new hire. According to the U.S. Citizenship and Immigration Service's website ([uscis.gov](https://uscis.gov)):

"On the form, an employee must attest to his or her employment authorization. The employee must also present his or her employer with acceptable documents evidencing identity and employment authorization. The employer must examine the employment eligibility and identity document(s) an employee presents to determine whether the document(s) reasonably appear to be genuine and to relate to the employee and record the document information on the Form I-9."

Employers should make sure to use the most recent version of the I-9. This is the one dated 10/21/2019. Employers can find the edition date at the bottom of the page on the form and instructions. As the newest version of the paper form has no changes from the prior one, checking the date is the only way to tell which edition you are using.

Note that completion must happen in a timely manner. The new employee must complete Section 1 of Form I-9 by his or her first day of employment. The employer must complete Section 2 of Form I-9 within three business days of the employee's first day of employment.

## Section 1 of Form I-9: Employee Information and Attestation



Before an employee's first day of work (but never before actually accepting a job offer), he or she should complete Form I-9's first section. An HR representative should ensure the new hire provides all requested information and signs the document.

The employee information elements of Section 1 are:

- Full legal last name
- Full legal first name
- Middle initial
- Other last names used (such as a maiden name)
- Address of current residence
- Date of birth (in the form mm/dd/yyyy)
- Social security number (This information is voluntary on Form I-9 unless the employer participates in [E-Verify](#). E-Verify is an Internet-based system that compares information entered by an employer from an employee's Form I-9 to records available to the U.S. Department of Homeland Security and the Social Security Administration to confirm employment eligibility.)
- Employee's email address (optional): Provide either an active personal or work email address in the form of name@site.domain. If choosing not to answer, write N/A.

- Employee's telephone number (optional): Provide in the form of 000-000-0000. Write N/A if opting not to answer.

In the employee attestation portion of Section 1, he or she must check one of the following boxes about citizenship or immigration status:

1. A citizen of the United States
2. A noncitizen national of the United States
3. A lawful permanent resident (include Alien Registration Number/USCIS Number)
4. An alien authorized to work (include Alien Registration Number/USCIS Number or Form I-94 Admission Number or Foreign Passport Number and the Country of Issuance)

Employees who are uncertain which statement best applies to them should consult the instruction sheet provided with the I-9 form for more details.

Then, the new hire must sign and date Form I-9 to attest under penalty of perjury that the information provided is true and correct. This action must be done by individuals themselves even if a preparer or translator helped fill out the rest of the form.

The final part of Section 1 is called Preparer and/or Translator Certification. Employees who filled out information themselves will check a box indicating they did not use one. Those who did require someone else's help must have that individual sign and date the document as well as provide the asked-for basic personal information.

## **Section 2 of Form I-9: Employer or Authorized Representative Review and Verification**

For this part of the form, an authorized in-house or off-site representative needs to physically see and inspect proper identification brought in by the new hire. Who is lawfully able to do this task is spelled out in the Form I-9 instructions:

"You may designate an authorized representative to act on your behalf to complete Section 2. An authorized representative can be any person you designate to complete and sign Form I-9 on your behalf. You are liable for any violations in connection with the form or the verification process, including any violations of the employer sanctions laws committed by the person designated to act on your behalf."

This flexibility helps in situations such as when a company is hiring a remote worker and does not have someone who lives in the area to perform the inspection. A notary public or other person trusted by the employer can step in to fill in Section 2. However, organizations need to choose wisely because employers assume responsibility for the actions of their designated representative.

Included with the I-9 form a new hire is given to fill out is a list of acceptable documents to bring to the inspection. The goal is to establish two things – identity and employment authorization. To this end, a new employee can choose one of two actions:

- Present ONE document from List A. Documents on this list – such as a U.S. passport, a Permanent Resident Card, or an Employment Authorization Document (Form I-766) – establish both identity and employment authorization.
- Present both ONE document from List B **and** ONE document from List C. List B documents are ones that establish identity, such as a driver's license, school ID card with a photograph, or a voter's registration card. List C documents are ones that establish employment authorization, such as a Social Security Card or a birth certificate.



Employers and their reps should familiarize themselves with the entire list of acceptable documents. Note that you do not have a say in what the employee presents. You must let the person choose how to fulfill the requirement. The inspector should check the expiration date on documents when applicable and reject those that have expired. With the exception of a certified copy of a birth certificate, employees must present original documents. Photocopying these documents before returning them is voluntary unless you are an employer who participates in E-Verify.

When satisfied with the employee's documentation, the employer or rep fills out the requested info on the I-9. This includes document title, issuing authority, and expiration date (if any). The inspector signs and dates the form and fills out the name and address of the business that hired the employee. There is also a space to input the date employment began for the employee.

Before calling Section 2 done, be sure to double-check that at the top of the page you transferred into this section the asked-for employee information from Section 1 (last name, first name, middle initial, and citizenship status). This action helps to ensure that the two pages of an employee's I-9 form remain together.

One more important note regarding examination of documents. During the COVID-19 pandemic, the government made some allowances regarding physical inspection of documents. Currently, these flexibilities run until October 31, 2022. If your company participated in temporary [I-9 virtual verifications](#) (or continues to meet the requirements to do so now), it is very important to stay on top of this issue.

## Section 3 of Form I-9: Re-verification and Rehires

Unlike the previous two sections, this part of Form I-9 does not get filled out immediately, nor does it get filled out for every employee. Rather, the USCIS states:

Employers *must* complete [I-9 Section 3](#) when:

- Your employee's employment authorization or documentation of employment authorization has expired ("re-verification").

Employers *may* complete Section 3 when:

- Your employee is rehired within 3 years of the date that Form I-9 was originally completed.
- Your employee has a legal name change.

In the "must" case, the agency wants you to re-verify that the employee is still authorized to work. Note that U.S. citizens, noncitizen nationals, and lawful permanent residents who presented a Permanent Resident Card (Form I-551) at the time of hire do not need re-verification.

For affected employees, the employer or its representative needs to physically inspect a new document that proves work authorization. This can be a List A or List C document that contains a new, unexpired expiration date. Do not ask for a List B item. The USCIS recommends notifying employees subject to re-verification at least 90 days before the date re-verification is required. This allows time to secure an acceptable document.

After examination, the inspector fills out and signs Section 3. The input fields look similar to those in Section 2, but the information recorded is for the current document.

In the case of rehires, some employers opt to fill out a new Form I-9 from scratch rather than complete Section 3 of the original. For those who decide to instead go ahead with Section 3 for eligible employees, the USCIS states you must:

- Confirm that the original Form I-9 relates to your employee.
- Review the original Form I-9 to determine if your employee is still authorized to work, including whether employment authorization documentation presented in Section 2 (List A or List C) has since expired (or have been auto-extended). Use the guidelines to determine if re-verification applies.
- If your employee is still authorized to work and his or her employment authorization documentation is still valid, enter the date of the rehire in the space provided in Section 3.
- If your employee is no longer authorized to work or the employment authorization documentation has since expired and requires re-verification, request that the employee present an unexpired List A or List C document. Do not reverify an employee's List B document. Enter the document information and the date of rehire in the spaces provided in Section 3. If the current version of Form I-9 is different from the

previously completed Form I-9, you must complete Section 3 on the current version.

- Sign and date Section 3.

## **Additional information**

As Form I-9 is such a common document, most HR professionals become quite proficient in filling them out. If questions do come up, consult the following sources:

- [USCIS Form I-9 Instructions](#)
- [Handbook for Employers: Guidance for Completing Form I-9 \(M-274\)](#)
- [I-9 Central](#) (especially helpful for the latest developments and changes)