



## HR Advisory Services Form I-9 Requirements and Fines for Violation

All employers are required by federal law to hire only those individuals who may legally work in the United States – either U. S. citizens or foreign citizens who have the necessary authorization. In order to demonstrate compliance with the law, employers must verify the identity and the employment authorization of each individual hired through the completion of Form I-9. Employers who hire or continue to employ individuals without this required verification may face civil and criminal penalties.

Form I-9 must be completed and maintained for every person hired as long as the person works for pay or other benefits. The form is generally not required for individuals who are:

- Hired on or before November 6, 1986 who are continuing in their employment and have a reasonable expectation of employment at all times;
- Employed for casual domestic work in a private home on a sporadic, irregular or intermittent basis;
- Are independent contractors;
- Provide labor to the organization but are employed by a contractor providing contract services or contingent labor (for example, temporary staffing agencies); or
- Are not physically working in the U.S.

Form I-9 should be completed when an individual accepts an offer of employment. The newly hired employee must complete and sign Section 1 of Form I-9 no later than the first day of work for pay (this can be completed prior to the first day of work for pay if the employer has offered a job and the prospective employee has accepted it). Employers are prohibited from asking or requiring an individual to complete this form before he or she has accepted a job offer.

The employee must present documents that establish the employee's identity and authorization to work in the U.S. within 3 business days of the date employment begins. Acceptable documents are identified on the Form I-9 (there is an option of presenting one document under List A, OR one document from List B AND one document from List C). Employers cannot specify which document(s) an employee may present from these lists

- All documents must be active (not expired) and presented in their original form (a notarized copy can be utilized for certain documents).
- If an employee is unable to present required document(s), he or she can present an acceptable receipt in lieu of a document (outlined in the instructions of Form I-9).
- Employers are permitted to make a photocopy of the original document(s) presented and retain these document(s) with the completed Form I-9, providing that this is done for any and all employees hired.
- Completed Form I-9s and supporting documents should be maintained separately from employee files.
  - Section 3 of Form I-9 should be completed when re-verifying the employee, either due to re-hire within 3 years of the date when Form I-9 was originally completed, or if the employment authorization has expired and has been renewed.
- The completed Form I-9 must be retained as long as the employee works for the employer, or until the later of 3 years after the date of hire or one year after the date employment is terminated.

### ***Important Update:***

Effective August 1, 2016, the U. S. Departments of Homeland Security (DHS), Labor (DOL) and Justice (DOJ) have increased the civil fines for employers that commit immigration-related offenses. The fines for I-9 paperwork violations (i.e., fines for mistakes or omissions on Form I-9) have increased from \$110 to \$1,100 per violation to \$216 to \$2,156 per violation, and apply to violations that occurred after November 2, 2015. There has been an increase in I-9 audits over the past five years, and employers should review their current policies and conduct a self-audit of documents to ensure compliance with this important requirement.