

Current I-9 form set to expire March 31

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The U.S. Citizenship and Immigration Services' (USCIS) I-9 form, which employers must complete to verify identity and authorization to work in the United States for all newly hired employees, is set to expire March 31, 2016. While USCIS hasn't announced whether it intends to issue a new form or extend the expiration date of the current form (OMB No. 1615-0047), the looming expiration is a good reminder of the importance of completing I-9s accurately and in a timely manner and auditing your forms regularly to ensure compliance.

While it may feel like completing the I-9 form is merely a paperwork hassle, incomplete forms and mistakes made during the process may result in significant fines for your company. Consequently, you should have a system in place to audit your I-9s and correct deficient forms discovered during an audit. Here's a list of key points to check in an audit:

- **I-9 forms must be completed for all employees.** Federal law requires employers to have a completed I-9 on file for all employees hired after the form came into existence in 1986, which at this time is likely most, if not all, employees.
- **The most current I-9 form must be used.** USCIS requires employers to use the current form for any new hires or for employees who need to complete a new I-9 for any reason. If you discover during an audit that an employee completed a form that expired before the date of completion, the employee will need to fill out a current form to be in compliance with USCIS requirements. If a new form needs to be completed, staple the new form on top of the original form. For electronic records, you should create a two-

page image with the new form as page 1 rather than two unconnected images.

- **Employees should complete Section 1.** Have the employee fill out Section 1 of the I-9, unless he is illiterate and unable to complete that section. It's your responsibility to make sure Section 1 is properly completed. If you note that an employee has missed an area, you should ask him to complete it. Do not complete it for him. If the employee makes an error when he's filling out Section 1, give him a new I-9, and have him complete it fully.
- **I-9 forms of current employees should be stored in one place.** It's a best practice to store I-9 forms for all current employees in the same location at their worksite. The forms should be stored alphabetically to allow quick review of an employee's I-9. That will also allow for easy removal of individual forms upon termination of employment.
- **I-9 retention procedures.** The law requires you to keep an employee's I-9 form for three years after his date of hire or one year after his date of termination, whichever is later. Therefore, when an employee leaves the company, determine how long he worked for you, and put his I-9 into the appropriate retention folder to ensure you keep it for the appropriate length of time. It's a best practice to keep I-9s only as long as you're legally required to because government auditors will examine all of the forms in your files. Deficient forms kept after the required retention period are subject to the same penalties as forms that are within the mandatory retention period.

The above tips are only a handful of the many practices you should consider to ensure your company is in compliance with USCIS's verification requirements. USCIS has a handbook

for employers (M-274) to assist with internal audits. Should you require further assistance, reach out to an attorney knowledgeable in employment law for help with an internal audit or to conduct the audit on your behalf. It's critical to avoid the potential I-9 pitfalls and penalties that can result from being unprepared when the government initiates the audit.

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