



# Is the I9 form you are using in Compliance?

**-REVISED I9 Form to be used as of 1/22/2017**

--Released By: Dana Praul, HR Coordinator [dana@mccloskeypartners.com](mailto:dana@mccloskeypartners.com)



Instructions Start Over Print

**Employment Eligibility Verification**  
 Department of Homeland Security  
 U.S. Citizenship and Immigration Services



▶ **START HERE:** Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.

**ANTI-DISCRIMINATION NOTICE:** It is illegal to discriminate against work-authorized individuals. Employers **CANNOT** specify which document(s) an employee may present to establish employment authorization and identity. The refusal to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Attestation** *(Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)*

Last Name (Family Name) ?		First Name (Given Name) ?		Middle Initial ?	Other Last Names Used (if any) ?	
Address (Street Number and Name) ?			Apt. Number ?	City or Town ?	State ?	ZIP Code ?
Date of Birth (mm/dd/yyyy) ?	U.S. Social Security Number ?	Employee's E-mail Address ?			Employee's Telephone Number ?	

### Which Form I-9 should I Use?

- Beginning Jan. 22, 2017, employers **must** only use the revised version Form I-9, Employment Eligibility Verification, dated 11/14/2016, to verify the identity and work eligibility of every new employee hired after Nov. 6, 1986.

### Which Form I-9 should I use for reverification?

- Reverification of expiring employment authorization for existing employees must be completed using the revised version, dated 11/14/2016.

### On or after Jan. 22, 2017, will prior versions of Form I-9 be valid for use?

- Prior versions of the form will no longer be valid for use.

## **What should I do with the previously completed Form I-9?**

- Employers should continue to follow existing storage and retention rules for all of their previously completed Form I-9.

## **How to store Form I-9:**

- On-site or at an off-site storage facility
- In a single format or a combination of formats, such as:
  - Paper
  - Electronic

Officers from the Department of Homeland Security, employees from the Office of Special Counsel for Immigration-Related Unfair Employment Practices at the Department of Justice, and employees from the Department of Labor may ask to inspect these forms.

## **What happens if a Government Official walks in for inspection?**

No matter how you choose to store your Form I-9, you must be able to present them to government officials for inspection within 3 business days of the date when the forms were requested.

## **Storing the Original Paper Form I-9**

Employers who choose to keep paper copies of the documents their employees present may store them with the employee's Form I-9. McCloskey Partners, LLC recommends that employers keep Form I-9 separate from personnel records to facilitate an inspection request.

## **Storing Form I-9 Electronically**

Employers may use a paper system, an electronic system or a combination of paper and electronic systems to store Form I-9. An electronic storage system must:

- Include controls to ensure the integrity, accuracy and reliability of the electronic generation storage system.
- Include controls to detect and prevent the unauthorized or accidental creation of, addition to, alteration of, deletion of or deterioration of an electronically completed stored Form I-9, including the electronic signature, if used.
- Include controls to ensure an audit trail so that any alteration or change to the form since its creation is electronically stored and can be accessed by an appropriate government agency inspecting the forms.

- Include an inspection and quality assurance program that regularly evaluates the electronic generation or storage system, and includes periodic checks of electronically stored Form I-9, including the electronic signature, if used.
- Include a detailed index of all data so that any particular record can be accessed immediately.
- Produce a high degree of legibility and readability when displayed on a video display terminal or reproduced on paper.

## **Penalties for Non-Compliance**

---

### **Are there penalties?**

Employers who fail to use Form I-9 (11/14/2016 N) on or after Jan. 22, 2017 may be subject to all applicable penalties under section 274A of the Immigration and Nationality Act, 8 U.S.C. 1324a, as enforced by U.S. Immigration and Customs Enforcement (ICE).

### **Penalties**

Employers have certain responsibilities under immigration law during the hiring process. The employer sanctions provisions, found in section 274A of the Immigration and Nationality Act (INA), were added by the Immigration Reform and Control Act of 1986 (IRCA). These provisions further changed with the passage of the Immigration Act of 1990 and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996.

### **Employers Must**

- Verify the identity and employment authorization of each person hired after Nov. 6, 1986. For employment in the Commonwealth of the Mariana Islands (CNMI), this verification requirement applies to persons hired after Nov. 27, 2009.
- Complete and retain Form I-9, Employment Eligibility Verification, for each employee who is required to complete the form.

### **Employers Must Not**

- Discriminate against individuals on the basis of national origin, citizenship, or immigration status.
- Request more or different documents than are required to verify employment eligibility, reject reasonably genuine-looking documents, or specify certain documents over others.
- Retaliate against or intimidate individuals because they: file charges with the Department of Justice's Immigrant and Employee Rights Section (IER); cooperate with an IER investigation; contest action that may constitute unfair documentary practices or discrimination based on citizenship or immigration status, or national origin; or assert their rights under the INA's anti-discrimination provision.
- Hire, recruit for a fee, or refer for a fee unauthorized aliens they know to be unauthorized to work in the U.S.

**Employers who violate the law may be subject to:**

- Civil fines
- Criminal penalties (when there is a pattern or practice of violations)
- Debarment from government contracts
- A court order requiring the payment of back pay to the individual discriminated against
- A court order requiring the employer to hire the individual discriminated against

**Civil Fines and Criminal Penalties for Form I-9 and Immigration-Related Employment  
Discrimination Violations**

Civil Violations		<u>First Offense</u>		<u>Second Offense</u>		<u>Third or Subsequent Offense</u>	
		Min.	Max.	Min.	Max.	Min.	Max.
Knowingly hired, or to have knowingly recruited or referred for a fee, an unauthorized alien for employment in the United States or to have knowingly continued to employ an unauthorized alien in the United States	Each Unauthorized Alien	\$539	\$4,313	\$4,313	\$10,781	\$6,469	\$21,563
Failing to comply with Form I-9 employment verification requirements	Each Form	\$216	\$2,156	\$216	\$2,156	\$216	\$2,156
Committing or participating in document fraud for satisfying a requirement or benefit of the employment verification process or the INA	Each Document	\$445	\$3,563	\$3,563	\$8,908	\$3,563	\$8,908
Committing document abuse	Per Violation	\$178	\$1,782	\$178	\$1,782	\$178	\$1,782
Unlawful discrimination against an employment-authorized individual in hiring, firing, or recruitment or referral for a fee	Per Violation	\$445	\$3,563	\$3,563	\$8,908	\$5,345	\$17,816

Failing to notify DHS of a Final Nonconfirmation (FNC) of an employee's employment eligibility	Per Violation	\$751	\$1,502	\$751	\$1,502	\$751	\$1,502
Requiring an individual to post a bond or security or to pay an amount or otherwise to provide financial guarantee or indemnity against any potential liability arising under the employment verification requirements	\$2,156 for each bond the employee paid to the employer.						
	Refund the employee the full amount of the bond. If the employee cannot be found, this refund will go to the U.S. Department of Treasury.						
<b>Criminal Violations</b>	<b>First Offense</b>	<b>Second Offense</b>	<b>Third Offense</b>				
Engaging in a pattern or practice of hiring, recruiting or referring for a fee unauthorized aliens	Up to \$3,000 for each unauthorized alien						
	Up to 6 months in prison for the entire pattern or practice						

When you have questions about I9 Compliance and your policies, contact McCloskey Partners and we will be sure to assist you or make sure you are directed to the appropriate industry experts.

**Office:** 215-716-3035 x 0 **Email:** info@mccloskeypartners.com.

Check out our website at <http://www.mccloskeypartners.com>

Follow us on Facebook, LinkedIn, Twitter, Pinterest, Instagram.