

GUIDELINES FOR CONDUCTING AN I-9 AUDIT

1. Generate a list of employees hired since November 6, 1986. It will be easier later if the list matches the order in which your I-9 forms are filed. The list should show last name, first name, date of hire, date of termination, and some distinguishing fact, e.g., SSN or DOB, in case two employees have the same name. Ideally, individuals with more than one hire date will appear on the list once for each date of hire, and each prior hire would also show a termination date, so you can determine which forms you don't need to keep.
2. Calculate the retention dates for persons on the list by comparing date of hire, date of termination, and the date of your self-audit. The easiest way to do this is to write down the date that is one calendar year prior to the audit date. That becomes the target termination date. Then subtract two years to get the target hire date. (Forms can be discarded for persons hired before the target hire date whose employment ended before the target termination date.) Highlight or cross off the names of the employees on the list whose I-9 forms need no longer be retained.
3. Pull forms for highlighted names from the I-9 file. Do not throw them away until someone else has confirmed that you need no longer retain the form by confirming that the two retention tests (three years from date of hire and one year from date of termination) have been met. In addition, you may find information on a form that need not be kept which may be useful in completing a form which was completed later (perhaps because of re-hire) for the same person.
4. Begin checking I-9 forms, working in the same order as the names on the list. As each form is reviewed, put a check mark on the list next to the appropriate name. Set aside forms for whom there is no name on the list as you go through it, as these are probably forms for people whose names changed.
5. Use "stick-on" notes to show problems with the forms. Be aware that forms may have multiple problems.
6. Begin correcting forms that have been reviewed. If you have retained photocopies of documents, many form deficiencies may be cured. In addition, information from employee personnel files may be helpful. If anything is added to Section 1 of the form, remember to complete the Preparer/Translator portion of the form. If using the new form, use the audit date as the date to insert in the Preparer/Translator portion of the form, since it is better to have a "late completion" problem than missing information on the form. If information is added to the form, try to use the same color ink. Do not use correction fluid or tape to cover up incorrect information or for any other purpose; instead, simply

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cross out the incorrect information. If you are adding information to the form, it is optional to include the words “Self-Audit” and the date of the audit.

7. If necessary, ask employees to sign or date Section 1 of the form or present correct documents.
8. As forms are corrected, cross out deficiencies on the “stick-on” notes. When all items are crossed out, remove the “stick-on” note. When the form is correct, re-file it. If you need to know more about your overall compliance level, annotate or highlight the employee list to show forms which have been corrected. This may help identify recurring problems for purposes of future staff training.
9. There may be some forms which simply cannot be cured. For example, you may have terminated employees from whom you accepted invalid documents, but the form cannot yet be discarded. Annotate the list to show a “major” problem, remove the “stick-on” note, and re-file the form. Note that you may wish to create a “tickler” file or some other system for reminding you to discard defective forms when you no longer need to retain them.
10. When you have reviewed all forms and corrected all deficiencies, review the annotated list to see what forms you are missing. See if any of the forms you set aside for lack of a name on the list should be filed under a different name. Consider checking the personnel file to see if a name change has occurred. Any current employees for whom no form can be found should be called in immediately to complete a form.
11. If a significant number of forms are missing or defective for terminated employees, consider keeping separate I-9 files for current and terminated employees. This may be helpful during the process of discarding forms periodically, and there is less likelihood that ICE will ask to see forms for terminated employees if the forms for current employees are in good shape.
12. Add up the number of missing forms and major problems to calculate your exposure. Missing forms are generally penalized at around \$1100 per form for the record-keeping violation plus around \$1500 per person for a knowing employment violation. (ICE assumes that persons without forms are illegal.) Major problems usually result in fines of between \$800 and \$1000 per form. If your exposure is significant, consider a training seminar for staff completing I-9 forms.
13. Discard forms that you are certain you need not keep.
14. Plan your next I-9 audit.

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