



Compliance Guide: Form I-9 & E-Verify

What is I-9/E-Verify?

The I-9 Employment Eligibility Verification Form must be completed by employers to verify U.S. work authorization eligibility. The I-9 is based on the Immigration Reform and Control Act (IRCA) of 1986, which was meant to combat the employment of those not lawfully authorized to work in the U.S. and establish consequences for those employers breaking the law.

E-Verify is an internet-based system that matches Form I-9 data with Social Security Numbers (SSNs), allowing employers to electronically verify the employment eligibility of new hires.

Rules & Regulations

Form I-9

- Form I-9 must be completed for every individual within three business days of the employee's hire date excluding Saturday, Sunday and holidays

Exceptions:

- Hired before November 6, 1986
 - Employed for casual domestic work in a private home
 - Independent contractor
 - Not physically working on U.S. soil
-
- Employees must be able to prove both identity and employment authorization by presenting documentation to their employer
 - See Handbook for Employers: www.uscis.gov/files/form/m-274.pdf
 - One List A document or one List B document and one List C document
 - I-9s must be stored for at least three years after employee's hire date or one year after employee is terminated, whichever is later
 - I-9s can be stored as paper files, microfilm, microfiche or electronically
 - When an employee's work authorization changes/expires, Form I-9 must be re-verified

E-Verify

- Mandatory: Federal contractors and subcontractors as of September 8, 2009
- Optional: Possible 17-Month OPT Extension for F-1 students
- Employers: obligation/requirements vary by state

Why is I-9 compliance important?

Since April 2009, U.S. Immigration and Customs Enforcement (ICE) has increased its worksite enforcement efforts, and the trend is expected to continue.

FY2010 (October 2009-September 2010) worksite enforcement by the numbers:

- ICE conducted more than 2,200 I-9 audits (up from more than 1,400 in FY 2009)
- Since January 2009, ICE has imposed approximately \$50 million in fines
- 180 owners, employers, managers and/or supervisors have been criminally charged (up from 135 in FY 2008 and 114 in FY 2009)
- ICE debarred 97 business and 49 individuals in FY 2010 (up from 30 and 53, respectively, in FY 2009)

What's my non-compliance risk?

- Monetary fines
 - Range from \$100 to \$1,000 per paperwork violation
 - As high as \$16,000 per "knowing hire" violation
- Barred from bidding on government contracts or participation in immigration programs
- Administrative or criminal arrests
- Asset forfeiture

What Can I Do?

- Establish internal practices and process for the initial application and re-verification of I-9 forms (immigration status, name changes, renewals/extensions, etc.)
- Provide regular IRCA/I-9 trainings (I-9 requirements, when to update and for whom, etc.) for HR, legal and management
- Work with your provider to conduct voluntary audits (depending on hiring frequency and volume)
- Consider online I-9 completion and storage to reduce paper files and increase accessibility

E-Verify

- If you are required to use E-Verify, document the necessary E-Verify steps within your company's I-9 process, provide E-Verify training to HR and legal on how to use the online platform and conduct internal audits to ensure compliance
- If E-Verify is optional, consult your immigration services provider as implications of use will vary by state

How Do I Handle a Government Visit?

- Don't panic
- Gather information to relay to your services provider
 - Did the visiting government agency identify themselves (USICS, ICE, DOL, FDNS)?
 - What or whom did the agent inquire (specific foreign national, filings)?
 - Did the agent request specific access to particular records?
 - With whom did the agent ask to speak (Foreign National, HR, Foreign National's Manager or Supervisor)?
- Notify your immigration services provider immediately
- Don't guess when answering government agent questions
- Follow your established internal processes

VISANOW Services

- Electronic I-9 management
- Voluntary compliance audits
- Compliance process development
- Compliance training
- Legal representation in employment eligibility compliance cases