



# Frequently Asked Questions: Form I-9 & E-Verify Compliance

## 1. Who needs a Form I-9?

Employers are required to verify the identity and work authorization of all individuals hired after November 6, 1986. In order to comply, an employer must review acceptable I-9 identity and employment eligibility documents for every employee, regardless of citizenship or immigration status.

## 2. When should Form I-9 be completed?

Form I-9 should be completed when the person physically begins working; however, it may be completed earlier if they have already accepted the job offer. U.S. law stipulates that Form I-9 must be completed within three business days from the date of hire, excluding Saturday, Sunday and holidays.

## 3. Where do I find Form I-9?

You can find Form I-9 at the U.S. Citizenship and Immigration Services' (USCIS) website: [www.uscis.gov/files/form/i-9.pdf](http://www.uscis.gov/files/form/i-9.pdf). Employers may use and store the paper-based Form I-9 or utilize an electronic I-9 solution. While electronic storage of I-9 forms has been permitted since 2006, the USCIS recently published new rules to allow "greater flexibility for employers to electronically sign and store I-9 forms." However, all electronic I-9 solutions must comply with record keeping standards and technical safeguards and retain the same "name, content, or sequence of the data elements" as the paper-based Form I-9.

VISANOW's online I-9 management solution offers an electronic preparation and storage system backed by unlimited legal advice.

## 4. How long do I have to keep an employee's Form I-9?

The form must be filled out by the employee/employer and kept on file with the employer for three years from the hire date or one year after an employee is terminated (whichever is later).

## 5. What are the current acceptable documents to prove employment eligibility?

The complete list of acceptable documents can be found in the Handbook for Employers, Instructions for Completing Form I-9 at [www.uscis.gov/files/form/m-274.pdf](http://www.uscis.gov/files/form/m-274.pdf).

## 6. Can I accept photocopies of acceptable documents from employees?

An employee must present original documents. The only exception is a certified copy of a birth certificate.

## I-9 & E-Verify FAQ - continued

### 7. Can I help an employee complete Section 1 “Employee Information and Verification” of Form I-9?

HR may help an employee who needs assistance in completing Section 1. In this case, the “Preparer/Translator Certification” block must then also be completed.

### 8. If I rehire an employee, is a new Form I-9 necessary?

If the employee is rehired within three years of the date of hire on the original I-9 form, then they are still authorized to work as long as the version of the form is currently acceptable. If the form version is no longer valid, Section 3 “Updating and Re-verification” of the current I-9 form must be completed upon re-verification and attached to the employee’s original Form I-9. If the rehire takes place after three years of the original date of hire, then a new Form I-9 must be completed.

### 9. Is a new Form I-9 needed when an employee is promoted or transferred between office locations within the company?

No, a new Form I-9 is not required when employees are promoted or transferred within the same company.

### 10. Can I hire someone externally to complete Forms I-9 for my business?

A third party vendor may complete and store your I-9s; however, you are still responsible for any violations and resulting non-compliance ramifications.

### 11. Who can be audited? Do I receive any advance notice before the government comes to my office to inspect my Forms I-9?

Since I-9s are required for all employees, all employers are susceptible to U.S. Immigration and Customs Enforcement (ICE) inspections. Employers will be served with a Notice of Inspection (NOI), when the government intends to inspect an employer’s I-9 forms, providing at least three days advance notice before the actual inspection.

### 12. How does an employer avoid potential liability?

Employers are well-advised to develop and implement detailed I-9 policies and practices. ICE recommends that a company, at a minimum, establish an internal training program with annual updates on how to manage the completion of Form I-9 and how to detect fraudulent use of documents in the I-9 process, permit the I-9 and any E-Verify processes to be conducted only by individuals who have received training, and include a review of the completed I-9s and documents by a second person as part of each employee’s verification (to minimize the potential for a single individual to subvert the process). Internal audits are also essential to limit liability and assess compliance.

### 13. Am I required to use E-Verify?

Currently only federal contractors and sub-contractors are legally required to use E-Verify. Use of E-Verify and implications is governed by state legislature.