




Homeland Security

AUG 22 2012

MEMORANDUM FOR: Assistant Directors
Deputy Assistant Directors
Special Agents in Charge

FROM: James A. Dinkins 
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Homeland Security Investigations

SUBJECT: Guidance on the Collection and Audit Trail Requirements for
Electronically Generated Forms I-9

In the course of Employment Eligibility Verification Form I-9 inspections, Homeland Security Investigations (HSI) special agents and auditors are increasingly encountering businesses that utilize electronically generated Forms I-9. This memorandum provides guidance to the HSI field offices on the collection of electronically generated Forms I-9 and the minimum electronic audit trail requirements for use in contemplating civil fines.

On August 23, 2010, U.S. Immigration and Customs Enforcement's Electronic Signature and Storage of Form I-9, Employment Eligibility Verification Final Rule (Rule) went into effect. In summary, the Rule amended regulations to allow employers to complete and store electronically generated Forms I-9. The Rule also made modifications to 8 CFR 274a.2 regarding the requirement for audit trails. Now, whenever an electronic Form I-9 record is created, completed, updated, modified, altered or corrected, a secure and permanent record must be created (audit trail) that establishes the date accessed, who accessed it and what action was taken. Further, the Rule outlined specific standards for systems creating electronically generated Forms I-9. In order to properly inspect electronically generated Forms I-9 for compliance with these regulations, special agents and auditors are provided the following guidance on what information to collect from the employer at the time of inspection and what a minimum audit trail should include.

In addition to the audit trail itself, special agents and auditors must ensure that the proper documents are obtained for electronically generated Forms I-9 to be inspected for compliance. Upon service of a Notice of Inspection, special agents or auditors must request the name of the software product being utilized and any internal business practices and protocols related to the generation of, use of, storage of, security of, and inspection and quality assurance programs for the electronically generated Forms I-9.

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The business or entity being inspected should also provide the indexing system identifying how the electronic information contained in the Form I-9 is linked to each employee and documentation of the system used to capture the electronic signature, including the identity and attestation of the individual electronically signing the Form I-9.

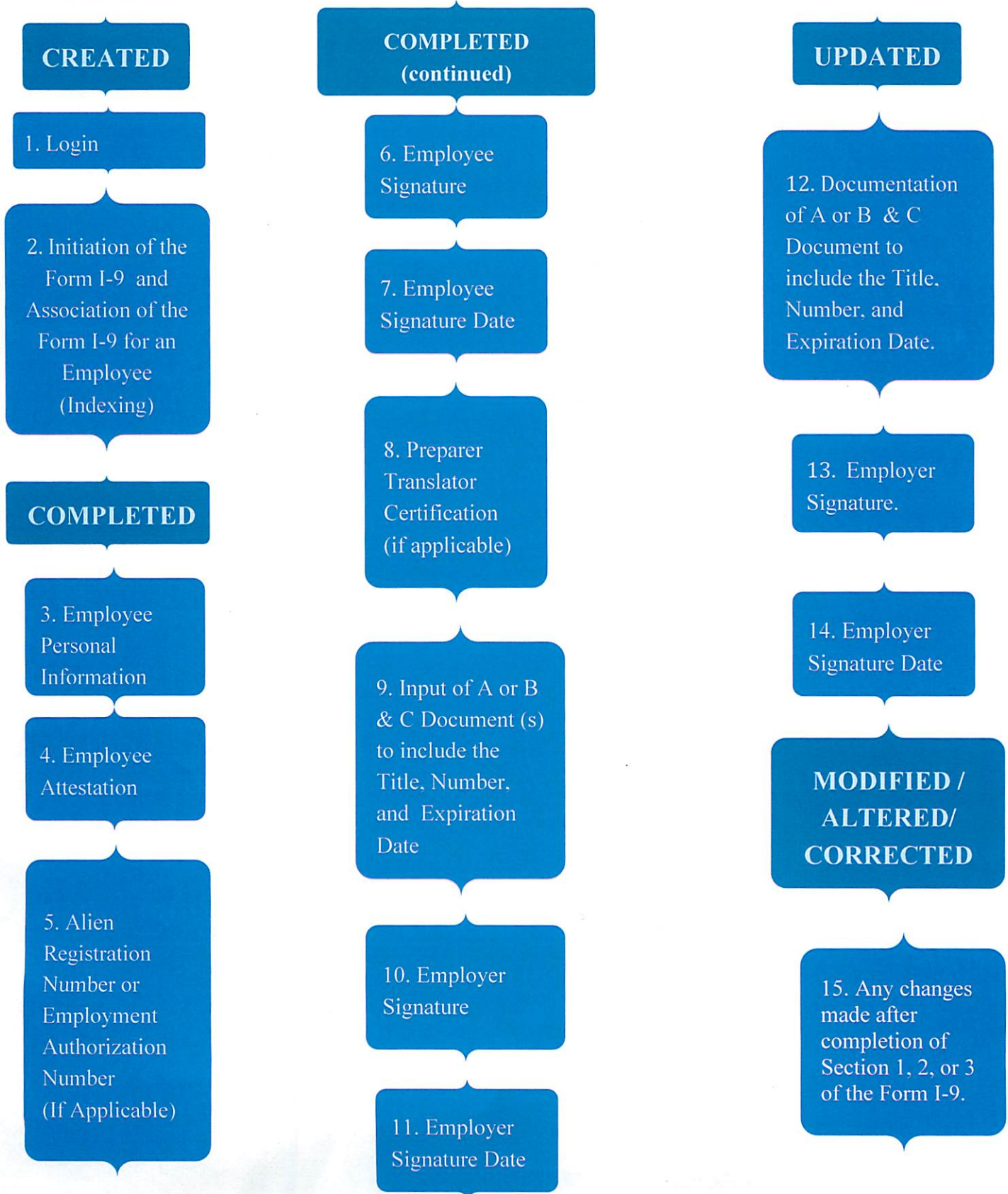
When determining whether audit trails for electronically generated Forms I-9 are in compliance with 8 CFR 274a.2(e)(8)(i), 274a.2(f)(1)(iii) and 274a.2(g)(1)(iv), special agents or auditors should reference the attached flow chart and audit trail that illustrate the minimum acceptable standards for electronically generated Forms I-9 (see attachment). Additionally, special agents or auditors shall request at least one printed completed electronically generated Form I-9 to ensure compliance with the regulation. Finally, it is recommended that special agents or auditors request access to the system for a demonstration of the generation of an electronic Form I-9.

Please forward the attached policy to all HSI personnel within your area of responsibility and ensure that it is implemented immediately. Questions regarding this guidance should be directed to (b)(6) at (b)(6) or (b)(6)

Attachment

Electronic Form I-9 Actions Requiring Audit Trail Documentation

All electronically generated Form I-9 audit trails must provide the date and time of access to the Form I-9, the identity of the individual accessing the Form I-9, and the action being taken by that individual on the Form I-9. This information should be presented in a logical, organized, easily accessible manner. What HSI considers as an action is outlined in the flow chart boxes 1-15 below.



Sample Acceptable Electronic Form I-9 Audit Trail

DATE STAMP	NAME/USER ID/PIN	ACTION
		<u>I-9 CREATED</u>
Date Stamp	Name/User ID/PIN	1. Log-in
Date Stamp	Name/User ID/PIN	2. Initiation of the Form I-9 and Association of the Form I-9 for an Employee
		<u>I-9 COMPLETED</u>
Date Stamp	Name/User ID/PIN	3. Employee Personal Information Input
Date Stamp	Name/User ID/PIN	4. Employee Attestation
Date Stamp	Name/User ID/PIN	5. Alien Registration Number or Work Authorization Document Number (if applicable)
Date Stamp	Name/User ID/PIN	6. Employee Signature
Date Stamp	Name/User ID/PIN	7. Employee Signature Date
Date Stamp	Name/User ID/PIN	8. Preparer / Translator Certification (if applicable)
Date Stamp	Name/User ID/PIN	9. Input of A or B and C document(s) to include Title, Number, and Expiration Date
Date Stamp	Name/User ID/PIN	10. Employer Signature
Date Stamp	Name/User ID/PIN	11. Employer Signature Date
		<u>I-9 UPDATES</u>
Date Stamp	Name/User ID/PIN	12. Documentation of A or B and C document(s) to include the Title, Number and Expiration Date
Date Stamp	Name/User ID/PIN	13. Employer Signature
Date Stamp	Name/User ID/PIN	14. Employer Signature Date
		<u>I-9 MODIFIED/ALTERED/CORRECTED</u>
Date Stamp	Name/User ID/PIN	15. Any changes made after completion of Section 1, 2 or 3 of the Form I-9