<table>
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Background
In 1986, in an effort to control illegal immigration, Congress passed the **Immigration Reform and Control Act (IRCA)**. **IRCA** forbids employers from knowingly hiring individuals who do not have work authorization in the United States.

The employment eligibility verification provisions of **IRCA** are found in Section 274A of the Immigration and Nationality Act (INA).
Background

Individuals who may legally work in the United States are:

- Citizens of the United States
- Noncitizen nationals of the United States
- Lawful Permanent Residents
- Aliens authorized to work
To comply with the employment eligibility verification provisions of the INA an employer must:

- Verify the identity and employment authorization documents of employees hired after November 6, 1986

- Complete and retain a Form I-9 for each employee hired after November 6, 1986

- Refrain from discriminating against individuals on the basis of actual or perceived national origin, citizenship or immigration status
The anti-discrimination provisions of the INA prohibit four types of unlawful conduct:

- Citizenship or immigration status discrimination*
- National origin discrimination*
- Document abuse during Form I-9 process
- Retaliation

* Actual or perceived
Background

The anti-discrimination provisions of the INA are enforced by the:

- Department of Justice
- Civil Rights Division
- Office of Special Counsel for Immigration Related Unfair Employment Practices

- Employees may contact the Office of Special Counsel (OSC) to obtain additional information regarding discrimination and employee rights and responsibilities.
  
  **1-800-255-7688 (TDD: 1-800-616-5525)**

- Employers may also contact OSC and remain anonymous.
  
  **1-800-255-8155 (TDD: 1-800-362-2735)**
Form I-9 is an employment verification tool brought about by IRCA.

Form I-9 helps verify whether individuals are authorized to work in the United States.

Employers who knowingly violate or circumvent the Form I-9 process, or anti-discrimination requirements of the INA may be subject to civil and/or criminal penalties.
Completing Form I-9

All U.S. employers must have a Form I-9 on file for all current employees.

*Exception:* Employers are not required to have Forms I-9 for employees hired on or before November 6, 1986.

You may delegate the authority to complete Form I-9 to a responsible agent, however, you will retain liability for any errors.
You are not required to complete Form I-9 for:

- Domestic service employees working in a private household when work is sporadic, irregular or intermittent.
- Independent contractors for whom you do not set work hours, or provide tools to do the job.
- Employees working outside the United States.*

* 50 States, District of Columbia, Guam, Puerto Rico, U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands
Completing Form I-9

Mergers and Acquisitions

Employers who acquire employees from a previous employer through a merger or acquisition can either:

1) Treat acquired workers as newly hired employees and complete new Forms I-9.
2) Consider them as continuing in employment and retain the previous Forms I-9 and retain Form I-9 liability for any previous mistakes.

Under one or two, all acquired employees should be treated the same to avoid discrimination concerns.
Completing Form I-9

Section 1: Employee Information and Verification

To be completed by EMPLOYEE.

Employer MUST verify Section 1 is COMPLETE.

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[Table and text content as shown in the image]
Completing Form I-9

Section 1: Important Area – Employee Attestation

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):

☐ A citizen of the United States
☐ A noncitizen national of the United States (see instructions)
☐ A lawful permanent resident (Alien #) __________________________
☐ An alien authorized to work (Alien # or Admission #) _____________

until (expiration date, if applicable - month/day/year)

Employee’s Signature

Date (month/day/year)

- The EMPLOYEE **MUST** select one of the four categories and **sign and date** Section 1 of Form I-9.

- All employees must complete Section 1 no later than the **first business day** of employment for pay.
Completing Form I-9
Section 1: Preparer/Translator Certification

- This certification is required when Section 1 is prepared by someone other than the employee.
- By signing, the preparer is attesting that Section 1 is true and correct to the best of his or her knowledge.
- Note that only the EMPLOYEE can sign the Section 1 Employee Signature Block.
Completing Form I-9

Section 2: Employer Certification of Document Review

- Completed by EMPLOYER.
- MUST be completed no later than **3 business days** after the employee begins work for pay.
- EMPLOYER MUST examine **original documents**.
- Documents MUST be **UNEXPIRED**.
Completing Form I-9

Section 2: Lists of Acceptable Documents

- You must make the Lists of Acceptable Documents available to your EMPLOYEE when he or she is completing the Form I-9.

- Make sure you use Form I-9 with (Rev. 02/02/09) or (Rev. 08/07/09) – expiration date for both forms is 08/31/2012.
Completing Form I-9

Section 2: Lists of Acceptable Documents

List A
Establishes Identity and Employment Authorization

List B
Establishes Identity

List C
Establishes Employment Authorization

The EMPLOYEE MUST provide either:

- One document from **List A** **OR**
- One document from **List B** **AND** one document from **List C**
Completing Form I-9
Section 2: Documents – Genuineness and Photocopies

- You are not required to be a document expert.
- You MUST accept a document presented by an employee if it reasonably appears to be:
  - Genuine AND
  - Relates to the individual presenting it
- The document MUST be original* – photocopies are NOT acceptable.

*The only exception is a certified copy of a birth certificate.
Completing Form I-9

Section 2: Receipt Rule

- Receipts may be used as temporary proof of employment eligibility when a List A, B or C document has been lost, stolen or destroyed.
- The receipt must be issued by the originating agency.
- The employee must present a replacement document within 90 days of the hire date.
Completely Form I-9

Section 2: Receipt Rule

- A receipt indicating that an individual has applied for an initial employment authorization document (Form I-766) or for an extension of an expiring employment authorization document (Form I-766) is **NOT** acceptable for Form I-9.

- Receipts are never acceptable if employment will last less than 3 business days.
You may choose to make copies of employee documentation presented to you for Section 2.

- If you choose to photocopy documents, you must do so for **ALL** employees, regardless of actual or perceived national origin, immigration or citizenship status, or you may be in violation of anti-discrimination laws.
 Completing Form I-9

Section 3: Reverification

You must reverify an employee on Section 3 or on a new Form I-9 if his or her temporary employment authorization has expired.

You MAY also complete Section 3 if you:

- Rehire the EMPLOYEE within 3 years of original hire date*
- Update the biographic information of an employee

* USCIS recommends completing a new Form I-9 for rehires

### Section 3. Updating and Reverification

<table>
<thead>
<tr>
<th>A. New Name (if applicable)</th>
<th>B. Date of Rehire (month/day/year) (if applicable)</th>
</tr>
</thead>
</table>

C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment authorization.

<table>
<thead>
<tr>
<th>Document Title</th>
<th>Document #</th>
<th>Expiration Date (if any):</th>
</tr>
</thead>
</table>

I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative Date (month/day/year)
## Completing Form I-9
### Section 3: Reverification

<table>
<thead>
<tr>
<th>Do Not Reverify</th>
<th>U.S. Passport or Passport Card</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Permanent Resident Card (Form I-551)</td>
</tr>
<tr>
<td></td>
<td>List B documents</td>
</tr>
</tbody>
</table>

### Permanent Resident Reverification Exceptions
- Reverify only if employee presents a Form I-94 with a temporary I-551 stamp, or
- A foreign passport with a temporary I-551 stamp (on a machine readable immigrant visa (MRIV))

### Usually Reverify
- When employment authorization document (List A or C) has an expiration date
Completing Form I-9

Correcting Mistakes

- If you discover a mistake on Form I-9:
  - Correct the existing form OR prepare a new Form I-9.
  - If you choose to correct the existing Form I-9, line out the incorrect portions, enter the correct information, and initial and date the correction.
  - If you do a new Form I-9, retain the old form. You should also attach a short memo to both the new and old Forms I-9 stating the reason for your action.

Missing Forms

If you discover you are missing the Form I-9 for an employee:
- Immediately provide the employee with a Form I-9.
- Allow employee 3 business days to provide acceptable documents.
- DO NOT backdate the Form I-9.
Form I-9

Storage and Retention
Storage

- Form I-9 MUST be on file for all current employees.
- Store Forms I-9 securely in a way that meets your business needs – on site, off-site, storage facility or electronically.
- Store Forms I-9 and document copies together.
- Ensure that only authorized personnel have access to stored Forms I-9.
- Make Forms I-9 available within 3 days of an official request for inspection.
Retention

Forms I-9 must be stored for 3 years after the date you hire an employee

or

1 year after the date you or the employee terminates employment, whichever is later.
Retention

To identify the retention date, add 3 years to the hire date and 1 year to the date employment was terminated. The date that is later is the retention date.

Example:

John Smith was hired on November 1, 1993, and on July 5, 1994, employment was terminated.

November 1, 1993 + 3 years = November 1, 1996
July 5, 1994 + 1 year = July 5, 1995

The retention date is November 1, 1996.
E-Verify and Form I-9
What is E-Verify?

No-cost Internet based system

Fast and easy to use

Electronically verifies the employment eligibility of:

- Newly hired employees
- Existing employees assigned to work on a qualifying federal contract

Helps maintain a legal workforce

Protects jobs for authorized workers

Partnership between the U.S. Department of Homeland Security and the Social Security Administration
What is E-Verify?

E-Verify Goals

- **Reduce** unauthorized employment
- **Minimize** verification-related discrimination
- **Be quick and non-burdensome** to employers
- **Protect** civil liberties and employee privacy
How does E-Verify work?
You should check E-Verify periodically for one of the following responses:

<table>
<thead>
<tr>
<th>Employment Authorized</th>
</tr>
</thead>
<tbody>
<tr>
<td>Review and Update Employee Data</td>
</tr>
<tr>
<td>Case in Continuance</td>
</tr>
<tr>
<td>DHS Verification in Process</td>
</tr>
<tr>
<td>DHS No Show</td>
</tr>
<tr>
<td>Final Nonconfirmation</td>
</tr>
</tbody>
</table>
For More Form I-9 and E-Verify Information

- Visit the I-9 Central website at [www.uscis.gov/I-9Central](http://www.uscis.gov/I-9Central)
  - One-stop shop for Form I-9 information
  - Provides more accessible and user-friendly information

- Visit [www.dhs.gov/E-Verify](http://www.dhs.gov/E-Verify) for more information on E-Verify
Form I-9 and E-Verify Outreach

- Verification Outreach Branch provides:
  - Speakers for your events
  - Panel participants
  - Conventions, expo participation
  - Webinars

Form I-9 and E-Verify E-Mail:

I-9Central@dhs.gov
E-Verify@dhs.gov
Form I-9 Resources

- Form I-9, Employment Eligibility Verification

- Form M-274, Handbook for Employers
  http://www.uscis.gov/files/nativedocuments/m-274.pdf

- I-9 Central
  www.uscis.gov/I-9Central
Employee Hotline – 1-888-897-7781
(available in English and Spanish)

- Created to respond to employee inquiries, issues and complaints. The hotline uses an interactive voice response system. Employees choose from four options:

1. General E-Verify information
2. Completing Form I-9, Employment Eligibility Verification
3. Contesting a Tentative Nonconfirmation or fixing a perceived Final Nonconfirmation error
4. Filing a complaint regarding employer misuse of E-Verify
5. Self Check
Contact Information

Customer Support: (888) 464-4218
Form I-9 E-Mail: I-9Central@dhs.gov
Form I-9 Website: www.uscis.gov/I-9Central
E-Verify E-Mail: E-Verify@dhs.gov
E-Verify Website: www.dhs.gov/E-Verify
Follow us on twitter: http://twitter.com/uscis
Disclaimer

Immigration law can be complex and it is not possible to describe every aspect of the process.

This presentation provides basic information to help you become generally familiar with rules and procedures.

For more information on the law and regulations please see our website: www.dhs.gov/E-Verify