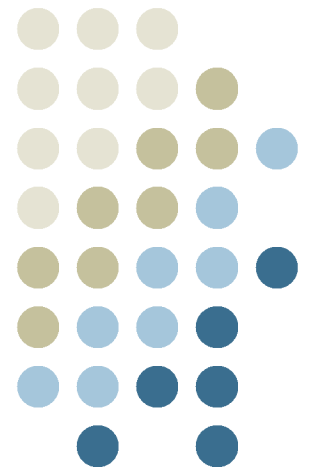
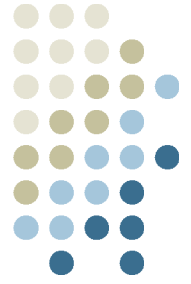


Immigration Updates and Avoiding I-9 Issues

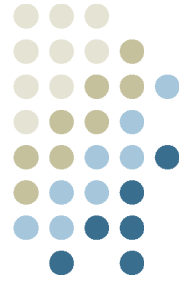
Sara S. Zorich
SmithAmundsen LLC
October 17, 2013





Updates

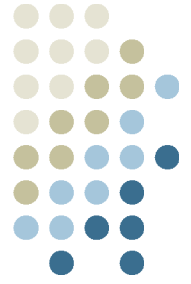
- Immigration Reform
 - Status
 - Mandatory E-Verify Requirements



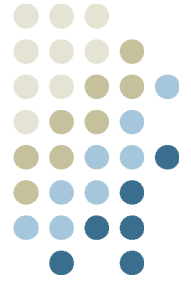
E-Verify Overview

- What is E-Verify?
 - E-Verify is an Internet-based system that compares information from an employee's Form I-9, Employment Eligibility Verification, to data from U.S. Department of Homeland Security and Social Security Administration records to confirm employment eligibility.
 - Website for more information: <http://www.dhs.gov/e-verify>
 - Anyone signed up for E-verify MUST review the E-Verify manual for employers (or federal contractors if applicable)
 - Must be completed within 3 business days of the first day of work for pay

E-Verify



- Failure to follow the E-verify rules can lead to alleged discriminatory practices based on federal law and/or state law
 - Illinois Human Rights Act makes it a violation for any employer to fail to comply with the E-Verify rules
 - Illinois Department of Human Rights investigators have been trained on E-verify and are looking for violations where employers are treating employees differently
 - Office of Special Counsel – (8 USC 1324b)
 - Prohibited discrimination related to the following:
 - (1) Citizenship/Immigration Status Discrimination; (2) National origin discrimination; (3) Document abuse or (4) Retaliation or intimidation



E-Verify: Illinois

- Note that Illinois law has different requirements for employers than the Federal Government
 - Upon initial enrolment, an employer enrolled in E-Verify **MUST** attest on a form provided by the Illinois Dept. of Labor
 - (1) that the employer received the E-Verify Training materials from the Department of Homeland Security and ALL employees who will administer the program have completed the E-Verify Computer Based Tutorial (CBT)
 - (2) that the employer has posted the notice from DHS indicating that the employer is enrolled in E-Verify



ILLINOIS DEPARTMENT OF LABOR

160 North LaSalle
Suite C-1300
Chicago, IL 60601 - 3150

Phone: (312) 793-1805
Fax: (312) 793-5257

For Office Use Only

Date Received:

File #:

Reviewed by:

**E-Verify
Employer Attestation Form**

Under penalty of perjury, I attest that:

1. _____ has received the E-Verify training materials from
(insert Company or Business Name)
the Department of Homeland Security (DHS) and all Employer personnel administering the E-Verify System have completed the Computer Based Tutorial (CBT);
2. Employer has posted in a prominent place that is clearly visible to prospective employees:
 - i) the notice from DHS indicating that Employer is enrolled in E-Verify, and
 - ii) the anti-discrimination notice issued by the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC), Civil Rights Division, U.S. Department of Justice.

Signature of Employer or Authorized Representative

Date

Print Name of Signatory:

Print Title of Signatory:

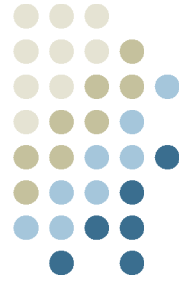
Employer Name:

Employer Address:

City: _____ State: _____ Zip: _____

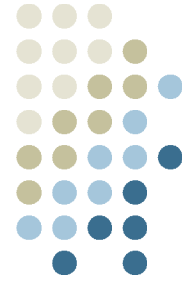
Telephone #: _____ Fax #: _____

Pursuant to Section 12(b) of the Right to Privacy in the Workplace Act, 820 ILCS 55,
as amended, effective January 1, 2008



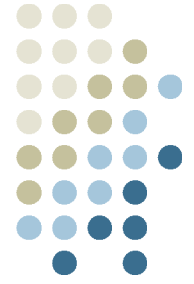
Worker Documentation

- Employers may only employ those workers who are eligible and authorized to work in the United States
- Employers determine a worker's eligibility by having the employee complete an I-9 form
- Why do you care... ICE Audits in the Workplace
 - Since 2009, employers have seen a significant increase in I-9 Audits
 - Further, ICE is re-auditing employers who were previously audited
 - Self-audits can significantly reduce an employer's risk of fines and assess weaknesses



ICE Audit - I-9 Fines

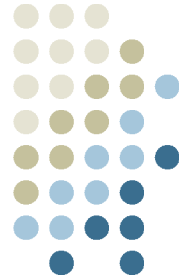
- If the Department of Homeland Security (DHS) determines you have knowingly hired unauthorized aliens it may order you to cease and desist and may implement a civil fine from a first offense range of \$375-\$3,200 per employee to subsequent offences of \$3,200 - \$16,000 per employee
- Failing to comply with the I-9 – failing to complete, retain or make available during an inspection can also result in fines between \$110 and \$1100 for each violation (new guidelines include multipliers which can increase fines)
 - Multiplier formula which can significantly increase fines
 - Recent case – Japanese Restaurant had 85 employees and fines issued by ICE were almost \$80,000 but court reduced to \$30,000



I-9 Issues

- Who Needs an I-9
 - Must complete an I-9 for all new hires
 - Applies to Employees hired after November 6, 1986
 - A self-employed person does not have to complete an I-9 for his or her own behalf
 - However, if the person is an employee of a separate business entity such as a corporation or partnership then he/she and any employee of the business entity **MUST** complete an I-9

Completing an I-9 Properly- Section 1 - Employee




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Please fill out the following form. You can save data typed into this form. Highlight Existing Fields



Employment Eligibility Verification
Department of Homeland Security
U.S. Citizenship and Immigration Services

**USCIS
Form I-9**
OMB No. 1615-0047
Expires 03/31/2016

▶START HERE. Read instructions carefully before completing this form. The instructions must be available during completion of this form.
ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which documents they will accept from an employee. The refusal to hire an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Attestation (Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)

Last Name (Family Name)		First Name (Given Name)		Middle Initial	Other Names Used (If any)	
Address (Street Number and Name)			Apt. Number	City or Town	State	Zip Code
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number	Email Address			Telephone Number	

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 non-citizen national of the United States (See Instructions)
- A lawful permanent resident (Alien Registration Number/USCIS Number): _____
- An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) _____. Some aliens may write "N/A" in this field. (See Instructions)

For aliens authorized to work, provide your Alien Registration Number/USCIS Number OR Form I-94 Admission Number:

1. Alien Registration Number/USCIS Number: _____

OR

2. Form I-94 Admission Number: _____

If you obtained your admission number from CBP in connection with your arrival in the United States, include the following:

Foreign Passport Number: _____

Country of Issuance: _____

Some aliens may write "N/A" on the Foreign Passport Number and Country of Issuance fields. (See Instructions)

Signature of Employee: _____	Date (mm/dd/yyyy): _____
------------------------------	--------------------------

Preparer and/or Translator Certification (To be completed and signed if Section 1 is prepared by a person other than the employee.)

I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Signature of Preparer or Translator: _____	Date (mm/dd/yyyy): _____
Last Name (Family Name) _____ First Name (Given Name) _____	
Address (Street Number and Name) _____ City or Town _____ State _____ Zip Code _____	

STEP Employer Completes Next Page STEP

3:06 PM
7/1/2013



Please fill out the following form. You can save data typed into this form. Highlight Exist



Employment Eligibility Verification

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No. 1615-0047
Expires 03/31/2016

▶ START HERE. Read instructions carefully before completing this form. The instructions must be available during completion of this form.
ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Attestation <i>(Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)</i>				
Last Name (Family Name)		First Name (Given Name)		Middle Initial
Address (Street Number and Name)		Apt. Number	City or Town	State
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number	E-mail Address		Telephone Number

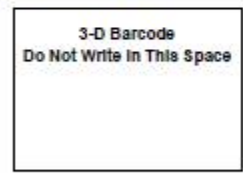
I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

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 Registration Number/USCIS Number): _____
- An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) _____. Some aliens may write "N/A" in this field. (See instructions)

For aliens authorized to work, provide your Alien Registration Number/USCIS Number OR Form I-94 Admission Number:

1. Alien Registration Number/USCIS Number: _____
OR
2. Form I-94 Admission Number: _____



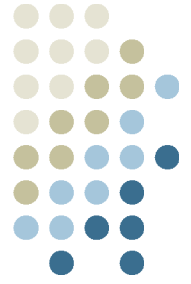
If you obtained your admission number from CBP in connection with your arrival in the United States, include the following:

Foreign Passport Number: _____
Country of Issuance: _____

Some aliens may write "N/A" on the Foreign Passport Number and Country of Issuance fields. (See instructions)

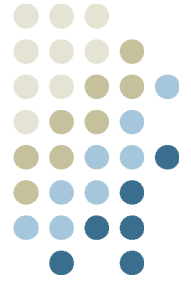
Signature of Employee: _____ Date (mm/dd/yyyy): _____

Completing an I-9 Properly



SECTION 1 – Employee Information

- Ensure that the employee fully completes Section 1 by the first day of work
 - Employee may complete Section 1 at any time between the acceptance of the job and the 1st day of work for pay
 - Cannot be completed until AFTER the employee accepts employment
- CANNOT be pre-populated by the Employer
- If employer assists with completing then must complete translator section

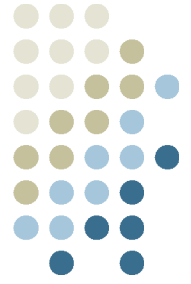


Completing an I-9 Properly

SECTION 1 – Employee Information

- All sections must be completed by the employee, except voluntary sections
 - “Other Names” – if none, employee should put N/A
 - Email Address is voluntary
 - If E-Verify employer and the employee voluntarily provides his/her email address employer **MUST** fill in that field in E-verify
 - Telephone Number is voluntary
 - The security number is VOLUNTARY unless the employer participates in E-Verify.
- If the employee is a lawful permanent resident the Alien # must be written in Section 1 by the employee

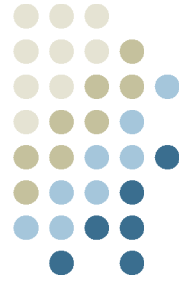
Completing an I-9 Properly



SECTION 1 – Employee Information

o Practice tip

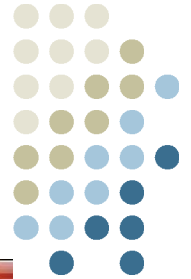
- Have employees complete on the first date for pay
 - If ICE audits your records they will request your payroll data
 - Ensure that the payroll data reflects the first date of work for pay or else you will have to explain when the employee accepted the offer to avoid any claims of potential discrimination
 - This date should match the date in which the employee signs Section 1
- Apply rule consistently to all employees
- Ensure that employee SIGNS and DATES on or before the 1st date of pay in the correct area



Completing an I-9 Properly

- Section 2 – Employer Review and Verification
- What to do:
 - Examine documents and validation of authenticity/eligibility to work
 - Complete information in Section 2 within 3 days of employee's first day of work for pay
- SOUNDS EASY RIGHT??? 😊

Completing an I-9 Properly - Section 2 – Employer Review and Verification



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Tools Sign Comment Extended

Please fill out the following form. You can save data typed into this form. Highlight Existing Fields

Section 2. Employer or Authorized Representative Review and Verification
(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents" on the next page of this form. For each document you review, record the following information: document title, issuing authority, document number, and expiration date, if any.)

Employee Last Name, First Name and Middle Initial from Section 1: _____

List A Identify and Employment Authorization	OR List B Identity	AND List C Employment Authorization
Document Title: _____	Document Title: _____	Document Title: _____
Issuing Authority: _____	Issuing Authority: _____	Issuing Authority: _____
Document Number: _____	Document Number: _____	Document Number: _____
Expiration Date (if any) (mm/dd/yyyy): _____	Expiration Date (if any) (mm/dd/yyyy): _____	Expiration Date (if any) (mm/dd/yyyy): _____
Document Title: _____		
Issuing Authority: _____		
Document Number: _____		
Expiration Date (if any) (mm/dd/yyyy): _____		
Document Title: _____		
Issuing Authority: _____		
Document Number: _____		
Expiration Date (if any) (mm/dd/yyyy): _____		

3-D Barcode
Do Not Write in This Space

Certification
 I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.
 The employee's first day of employment (mm/dd/yyyy): _____ (See instructions for exemptions.)

Signature of Employer or Authorized Representative: _____	Date (mm/dd/yyyy): _____	Title of Employer or Authorized Representative: _____
Last Name (Family Name): _____		First Name (Given Name): _____
Employer's Business or Organization Name: _____		
Employer's Business or Organization Address (Street Number and Name): _____		City or Town: _____
State: _____		Zip Code: _____

Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)

A. New Hire (if applicable): Last Name (Family Name) _____ First Name (Given Name) _____ Middle Initial _____ B. Date of Rehire (if applicable) (mm/dd/yyyy) _____

C. If employer's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below.

Document Title: _____	Document Number: _____	Expiration Date (if any) (mm/dd/yyyy): _____
-----------------------	------------------------	--

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 (mm/dd/yyyy): _____	Print Name of Employer or Authorized Representative: _____
---	--------------------------	--

List B. Expiration Date. Enter 2 digit month, 2 digit day and 4 digit year.

Form I-9 03/08/13 N Page 8 of 9

Please fill out the following form. You can save data typed into this form. Highlight Existing

Section 2. Employer or Authorized Representative Review and Verification

(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents" on the next page of this form. For each document you review, record the following information: document title, issuing authority, document number, and expiration date, if any.)

Employee Last Name, First Name and Middle Initial from Section 1: _____

List A Identity and Employment Authorization	OR	List B Identity	AND	List C Employment Authorization
Document Title: _____		Document Title: _____		Document Title: _____
Issuing Authority: _____		Issuing Authority: _____		Issuing Authority: _____
Document Number: _____		Document Number: _____		Document Number: _____
Expiration Date (if any)(mm/dd/yyyy): _____		Expiration Date (if any)(mm/dd/yyyy): _____		Expiration Date (if any)(mm/dd/yyyy): _____
Document Title: _____				
Issuing Authority: _____				
Document Number: _____				
Expiration Date (if any)(mm/dd/yyyy): _____				
Document Title: _____				
Issuing Authority: _____				
Document Number: _____				
Expiration Date (if any)(mm/dd/yyyy): _____				

3-D Barcode
Do Not Write in This Space

Please fill out the following form. You can save data typed into this form. Highlight Exist

Expiration Date (if any)(mm/dd/yyyy):

Certification

I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy): (See instructions for exemptions.)

Signature of Employer or Authorized Representative Date (mm/dd/yyyy) Title of Employer or Authorized Representative
Last Name (Family Name) First Name (Given Name) Employer's Business or Organization Name
Employer's Business or Organization Address (Street Number and Name) City or Town State Zip Code

Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)

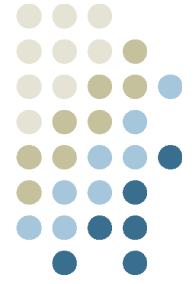
A. New Name (if applicable) Last Name (Family Name) First Name (Given Name) Middle Initial B. Date of Rehire (if applicable) (mm/dd/yyyy):

C. If employee's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below.

Document Title: Document Number: Expiration Date (if any)(mm/dd/yyyy):

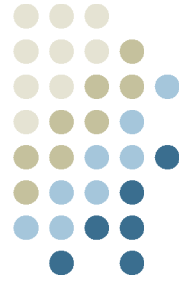
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative: Date (mm/dd/yyyy): Print Name of Employer or Authorized Representative:



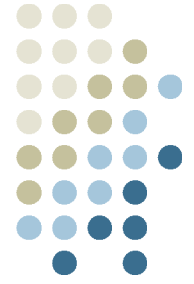
Completing an I-9 Properly

- Section 2 – Employer Review and Verification (CONT).
 - Employees must present original documents establishing their identity and that they are authorized to work in the US
 - The Employee can choose which documents to provide an employer
 - Employer MAY NOT dictate which documents the employee will provide
 - Employee can provide 1 document from List A or a document from List B and List C
 - List A documents verify identity and employment authorization
 - List B documents verify identify
 - List C document verify employment eligibility



Completing an I-9 Properly

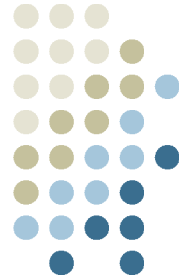
- Section 2 – Employer Review and Verification (CONT).
 - Examine the documents
 - Cannot accept any document that is expired when the document is presented
 - Reasonable person standard to establish if the documents appear legitimate
 - You must examine the document(s) provided by the employee and if they reasonably appear on their face to be genuine then you must accept them



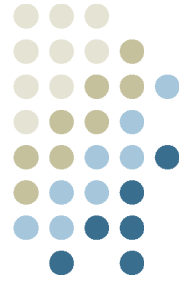
Completing an I-9 Properly

- Section 2 – Employer Review and Verification (CONT).
 - Examine the documents (cont.)
 - If you believe that the document is not genuine or reasonably relates to the employee then you MUST NOT accept it
 - If you believe that you have been provided a false document, inform the employee that you believe that the documentation they have provided is fraudulent or does not indicate they are authorized to work in the United States.
 - Employee can then provide alternative documentation. Again, cannot tell the employee what to provide

Completing an I-9 Properly

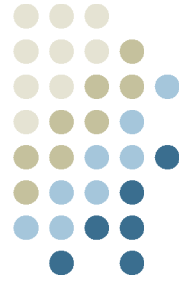


- Section 2 – Employer Review and Verification (CONT).
 - Ensure that what the employee attested to in Section 1 and the documents being provided for employment authorization match
 - Can't have someone check US Citizen in Section 1 and then provide a permanent resident card for Section 2
 - If there is a mismatch in documents, inquire with the employee and verify that what they attested to in Section 1 is correct. If employee says yes, then you may not accept the documents provided. Request the employee provide alternative documentation to support their employment authorization



Completing an I-9 Properly

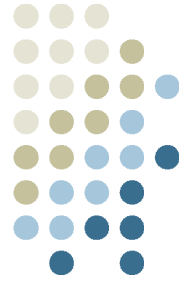
- Section 2 – Employer Review and Verification (CONT).
 - Completing Section 2
 - Make sure to List the Document information under the correct heading (List A, List B or List C)
 - Employee should only give you 1 List A document OR a B and C – do not request or accept more documentation than is necessary
 - Enter the employee's date they began employment (first date of pay)
 - This should MATCH what is on the payroll records
 - If someone is rehired later, payroll system should have way to track all employee hire/termination dates



Completing an I-9 Properly

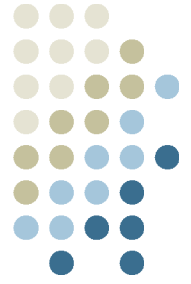
- Section 2 – Employer Review and Verification (CONT).
 - Completing Section 2
 - Make sure to also do the following:
 - Enter employee's name on the top of the page (page 8 of 9)
 - Complete employee's first day of employment
 - Sign
 - Date
 - Print Name
 - Print Title
 - Business Name and address

Completing an I-9 Properly



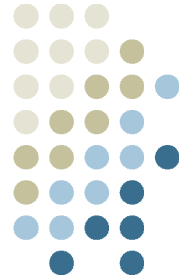
- Section 2 – Employer Review and Verification
 - Employer must review the documents presented by the employee to confirm eligibility to work in the United States and fully complete Section 2 of the I-9 form within 3 days of the employee's first day of work
 - That means if the employee begins work on Monday, the employer must complete Section 2 by the end of the day on Thursday (do not count the first day)
 - If the employer is open for business on Saturday or Sunday those days count in the 3 day rule even if HR doesn't work those days
 - Remember – if the employee is hired for less than 3 days then the verification must take place on day 1

Completing an I-9 Properly



- Make sure to manage this 3 day deadline to ensure you are complying
 - Have a system in place to track the 3 day deadline
 - Make sure all supervisors/managers are trained regarding the I-9 requirements
 - If the employee does not provide you with documents within three days you can't continue to employ them

Completing an I-9 Properly- Section 3 – Re-Verification/Re-Hire



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Tools Sign Comment Extended

Please fill out the following form. You can save data typed into this form. Highlight Existing Fields

Expiration Date (if any)(mm/dd/yyyy):

Certification

I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy): (See instructions for exemptions.)

Signature of Employer or Authorized Representative		Date (mm/dd/yyyy)	Title of Employer or Authorized Representative	
Last Name (Family Name)		First Name (Given Name)	Employer's Business or Organization Name	
Employer's Business or Organization Address (Street Number and Name)		City or Town	State	Zip Code

Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)

A. New Name (if applicable) Last Name (Family Name) First Name (Given Name) Middle Initial B. Date of Rehire (if applicable) (mm/dd/yyyy):

C. If employee's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below.

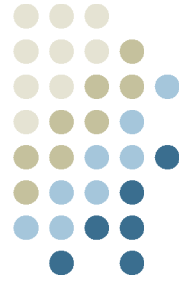
Document Title:	Document Number:	Expiration Date (if any)(mm/dd/yyyy):
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I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative:	Date (mm/dd/yyyy):	Print Name of Employer or Authorized Representative:
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Form I-9 03/08/13 N Page 8 of 9

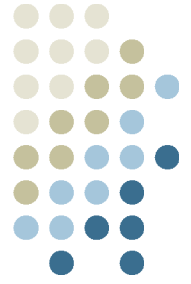
3:10 PM 7/1/2013



Completing an I-9 Properly

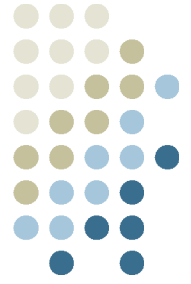
- Section 3 – Re-Verification
 - Completed on or before the work authorization date expires in Section 1
 - **NEVER** done for US Citizens or Permanent Residents
 - DO NOT REVERIFY THE FOLLOWING DOCUMENTS:
 - An expired US passport or Passport Card
 - An Alien Registration Card/Permanent Resident Card (Form I-551)
 - List B documents that have expired
 - Done for employees whose work authorization expires

Completing an I-9 Properly



- Section 3 – Re-Verification
 - Employers can either complete Section 3 or complete a new I-9 if Section 3 has already been completed
 - However, if the employee's original I-9 was a version different than the current version, employers must use Section 3 of the current version of the Form I-9
 - If the employee cannot provide proof of current employment authorization, you **CANNOT** continue to employ that person
 - Employer **MUST** keep track of the date the document expires so re-verification is completed **BEFORE** the work authorization expires

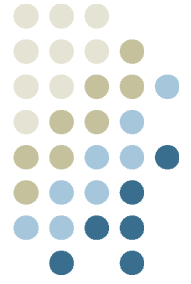
Completing an I-9 Properly



- Section 3 – Re-Hire

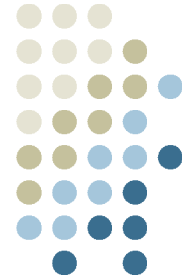
- If an employee is rehired within 3 years of the date the I-9 was originally completed and the employee is still authorized to be employed on the same basis as previously indicated on the form
- To do:
 - Complete Block B (Date of rehire)
 - Complete signature block and date

Completing an I-9 Properly



- Section 3 – Re-Hire

- If an employee is rehired within 3 years of the date the I-9 was originally completed and the employee's work authorization has expired
- To do:
 - Complete Block B (Date of Rehire)
 - Examine any document that reflects the employee is authorized to work in the US
 - Record the document information in Block C
 - Complete the signature block and date
- Can complete a New I-9 instead if employer desires
 - If you do this need to complete all sections



Retention of I-9 Forms

- Employers must retain I-9's for all employees for 3 years after the date of hire or 1 year after the date the employment is terminated, whichever is longer.

I-9 Retention Calculator:

1. Enter date employee started work: _____

Add 3 years to Line 1

A. _____

2. Termination date: _____

Add 1 year to Line 2

B. _____

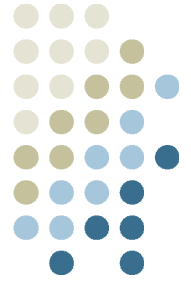
Which date is later: A or B? Enter later date here.

C. _____

(Store Form I-9 until this date)

○ Examples

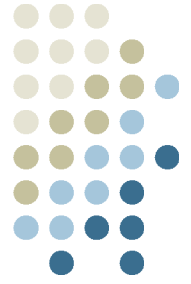
- If an employee works for the Company for 1 year and then quits, the Company must retain that I-9 for 2 years after the employee departs from the company.
- If an employee works for the Company for 7 years, the Company must retain the I-9 for 1 year after the employee departs.



Other I-9 Issues

- Lawful Permanent Residents

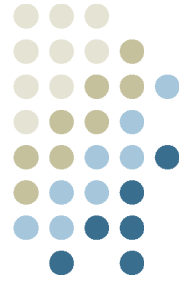
- Employees who attest to being a lawful permanent resident under Section 1 may choose to present a valid Form I-551 (Permanent Resident Card) to comply with Section 2 **OR** may choose to present a List B and C document combination
- Note – the I-551 may contain no expiration date, a 10-year expiration date or a 2-year expiration date. Regardless, they should NEVER be re-verified
- Note - if employer uses E-Verify they must obtain identification with a photo on it so can state that employee must provide either an A document or a B document with a photo but do not dictate which document the employee must provide



Other I-9 Issues

- Receipt Rule

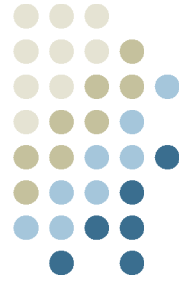
- An employee may provide a receipt at the time of employment for verification purposes that shows they have requested a **replacement for a lost, stolen or damaged document**
 - The employer should write the word “receipt” and its document number in the “Document #” space on Section 2
 - The receipt is valid for 90 days from the date of hire or re-verification. Employee must provide the actual document before the 90 day deadline to employer
 - When the employee presents the actual document, cross out the word “receipt” and any accompanying document number and insert the number from the actual document, initial the change and date the change
- A receipt indicating an individual has applied for an INITIAL Document IS NOT acceptable proof of employment



Other I-9 Issues

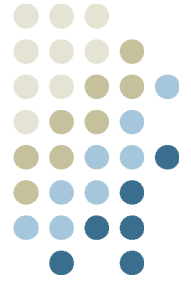
● Interruptions of Work

- You must complete a new Form I-9 when a hire takes place, unless you are rehiring an employee within three years of the initial hire date.
- However, in certain situations, a hire is not considered to have taken place despite an interruption in employment.
- **In case of an interruption in employment, you should determine whether the employee is continuing in his or her employment and has a reasonable expectation of employment at all times.**



Other I-9 Issues

- Interruptions of Work
 - These situations constitute continuing employment and a New I-9 is NOT Required:
 - Seasonal Employment
 - Promotion, demotion or pay raises
 - Leaves of Absences (FMLA, personal, maternity or paternity, pregnancy, vacation etc.)
 - Strikes or Labor Disputes
 - Temporary Layoff of workers for lack of work
 - Transfer from one location to another
 - Reinstating an employee after disciplinary suspension or otherwise resolved through reinstatement or settlement



Other I-9 Issues

- Name Changes

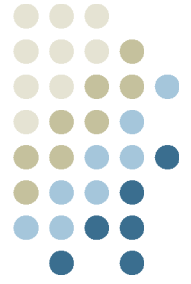
- Not required to update Form I-9 when an employee changes his or her name

- However USCIS recommends that if someone is updating their name, it is recommended that you use Section 3

- This will help in an audit to identify the person's I-9
- No documentation is required with the new name on it for I-9 purposes, however you can ask the employee the basis for the name change
- If employee provides documentation, keep it with the I-9 form

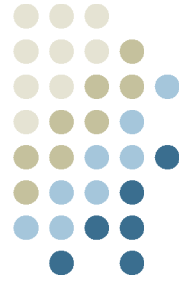
- E-Verify

- Advise employee that they should record their name change with the Social Security Administration to avoid receiving a tentative non-confirmation



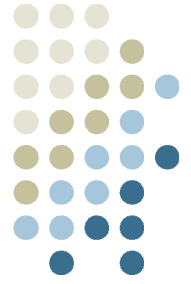
Other I-9 Issues

- Name Issues
 - May present documents with different names on them as long as the employer is satisfied that it reasonably relates to the person presenting it and it appears genuine
 - If documents contain slight spelling variances and the employee has a reasonable explanation then employer may accept as long as the employer is satisfied that it reasonably relates to the person presenting it and it appears genuine
 - Employers may want to keep a memo with the I-9 form memorializing the employee's explanation for the name variances



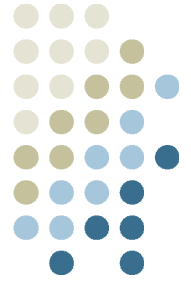
Other I-9 Issues

- Social Security Card
 - Cannot accept if laminated
 - Cannot accept if says “not valid for employment,” “valid for work only with INS authorization” or “valid for work with DHS authorization”



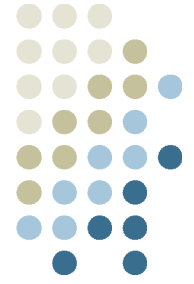
Other I-9 Issues

- Copying Documents Provided by Employee... To Copy or Not to Copy...
 - Employers may copy the documents provided by the employee and retain them with the I-9 but it is not required
 - If an employer chooses to do this it must be done consistently – either do it for everyone or do it for no one
 - If using E-Verify, must keep a copy of the photo document presented (Either List A or B)



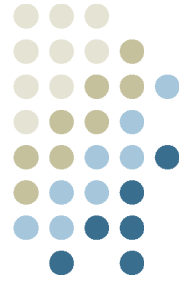
Other I-9 Issues

- Copying Documents Provided by Employee... To Copy or Not to Copy...
 - Why to copy:
 - Copying allows for an employee to perform an I-9 audit of the documentation at a later time
 - Shows good faith to a suspicious ICE auditor
 - Diminishes chances of a charge of knowingly hiring an undocumented alien
 - Shows attempt to comply with I-9 requirements
 - Could lower fines/violations if employer makes a mistake in completing Section 2
 - Why Not
 - Employer is accepting documents that are clearly fraudulent.... (however... at this point you have bigger issues...)



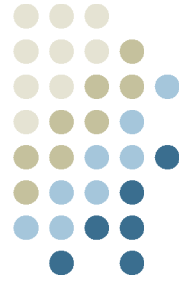
Other tips

- Best way to correct Form I-9 during an audit or if a mistake is made is to line through the portions of the form that contain incorrect information. Then enter the correct information, initial and date the correction. **DO NOT USE WHITE OUT**
 - Employees are the only ones who can make changes to Section 1
 - Employers can make changes to Section 2, however, circumstances dictate what changes are acceptable and when an entirely new I-9 is necessary



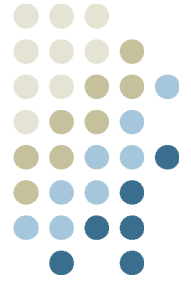
Other tips

- Employers are responsible for protecting an employee's private information and ensuring that is used ONLY for I-9 purpose
- Keep I-9's in a separate location from the employee's personnel file. If ICE comes knocking, you do not want to provide the government with all of your personnel files.



Action Plan for ICE Visits

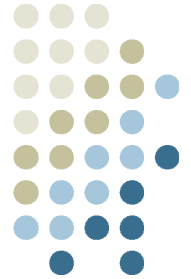
- Prior to a visit from ICE
 - Perform an I-9 internal audit
 - Determine any non-compliance and fix technical errors
 - Should any substantive changes need to be made, provide uniform action plan for all employees
 - Perform audit in nondiscriminatory manner
 - Consider utilizing electronic I-9's and vendor assistance for compliance
 - Consider utilizing E-Verify
- Contact legal counsel upon visit from government official prior to office leaving your premises



Handbook for Employers

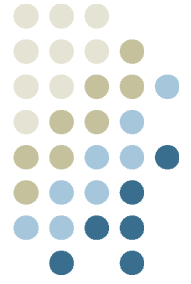
- Instructions on Completing the I-9 Form
 - M-274 – make sure you are using the most recent version – USCIS changes it often
 - <http://www.uscis.gov/files/form/m-274.pdf>

Social Security No Match Letters Are Back!!!



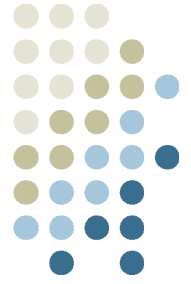
- In March 2011, the Social Security Administration (SSA) began issuing no match letters again.
- The letters inform employers that the social security number provided by an employee (which the employer ultimately reports to the government) does not match what SSA has in its records.
- The new SSA letters look different than previous versions. The prior versions listed multiple employees per form, however, the new versions are only one employee per notice.
- Employers may receive many notices in the mail and need to address each one individually.

Social Security No Match Letters Are Back!!!



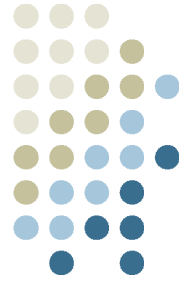
- What might cause a no-match notice:
 - An unreported name change due to marriage, divorce or naturalization
 - Input errors by SSA staff
 - Reporting errors by employer or employee
 - Identify theft
 - Errors in reporting proper culturally based hyphenated or multiple surnames
 - Fraud

Social Security No Match Letters Are Back!!!



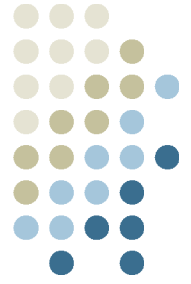
- When an employer has received a no match letter it should first check its documentation on file to ensure information was reported accurately with what the employer has on file.
 - Send a copy of SSA's no match letter to the affected employee
 - If you find an error in your records then send corrections to SSA on Form W-2c and inform the employee that the problem has been corrected

Social Security No Match Letters Are Back!!!



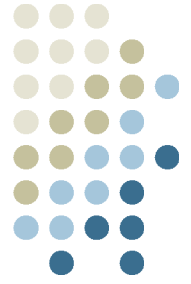
- If the information on file was reported by the employer correctly to the government, then the employer must contact the employee in an effort to resolve the discrepancy.
 - Send a copy of SSA's no match letter to the affected employee and ask the employee to inform you if the SSN has been reported incorrectly
 - If the employee finds an error, submit their correction to SSA and advise them to contact their local SSA office to correct their SSA records

Social Security No Match Letters Are Back!!!



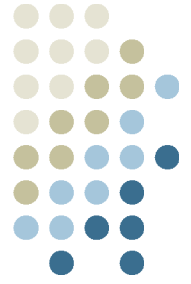
- The employer must give the employee a reasonable period of time to rectify the no-match notice
 - SSA has not identified a specific time period as “reasonable”
- Employer should document efforts taken to inform employee of SSA issue and efforts to rectify mismatch

Social Security No Match Letters Are Back!!!



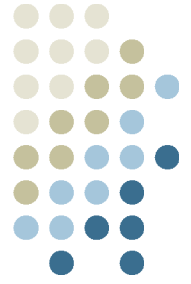
- No-Match letter by itself does not indicate that employee is unauthorized to work
- Employers should not take adverse action against the employee merely based on receipt of the letter
 - Adverse actions include reduction in job duties, salary, benefits, suspension and termination

Social Security No Match Letters Are Back!!!

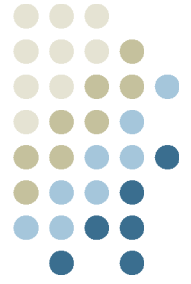


- However, if the employee informs you that they are not authorized to work in the US or you should know that the employee is not authorized to work in the US, you must terminate the employee
- Should speak with counsel before termination occurs

Social Security No Match Letters Are Back!!!



- Employers can use the Social Security Number Verification Service (SSNVS) to verify SSN's (for registered users only)
 - Verifying SSN's through this system can ONLY be used for wage reporting purposes
 - Use of this system for work authorization purposes is improper and may violate antidiscrimination laws



Questions ???

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312-894-3265