

Revised Employment Eligibility Verification Form I-9 Frequently Asked Questions

What is the Form I-9 and why is it required?

The Immigration Reform and Control Act of 1986 applies to all employers, including municipalities. Under this law, employers are prohibited from hiring anyone, including U.S. citizens, for employment in the U.S. without verifying their identity and employment authorization status and documenting both on the Form I-9. Likewise, the individual being hired must attest to the truthfulness of the information provided. The federal Immigration and Nationality Act was enacted to prohibit discrimination based on national origin, citizenship status, or immigration status. It also prohibits retaliation and unfair documentary practices during the Form I-9 process.

Why has Form I-9 changed?

The form has been revised to reduce errors and, ideally, to help the paper process move more quickly.

When must we use the new form?

The new version of the I-9, dated November 14, 2016, *must* be used starting January 22, 2017.

What has changed?

Changes include the following:

- Instructions have been expanded and are now separate from the form. They provide specific information for completing each field.
- You may enter data electronically on the “Smart I-9” electronic form and then print the form for hand signatures.
- If a field is not applicable, you must enter N/A and not leave any blanks.
- The electronic version provides drop down lists, calendars for dates, and “hover help” when you place your cursor over electronic “buttons” or question mark “bubbles” to get explanations or further information.
- The electronic form has built-in accuracy checks such as prompts and error messages that appear if you enter incompatible information.

Where can we get the new Form I-9?

You may order hard copies or access the form online at the U.S. Citizenship and Immigration Services (USCIS) website, <https://www.uscis.gov/i-9>. From the website you may print the paper version or access the electronic version. If you fill in the latter electronically, it must still be printed and signed by hand. To order paper copies from the USCIS Forms Request Line, call 800-870-3676.

What if we have trouble accessing the electronic version?

The electronic form requires the latest version of Adobe Reader. We suggest you download the form first and then access it from Adobe.

What documentation must accompany the form?

The last page of the form lists acceptable documents. For both identity and work authorization verification purposes, the new hire may show one document from List A; alternatively, the new hire may show one item from List B (for identity) and one item from List C (for work authorization status).

Is it permissible to accept a photocopy or a scanned copy of the person's documentation?

No. In all cases you must physically examine the original document(s). You may not view them via webcam.

What if the employee's I.D. has expired?

Only current, unexpired documents are acceptable.

What if the new hire has lost his/her I.D.?

The person may request a replacement I.D. and present the receipt from the issuing authority (such as from the Social Security Administration for a lost Social Security card). The receipt is valid for 90 days, at which time the person must show you their replacement document.

May we ask new hires to complete the form in advance of their start date?

You must not use the I-9 to screen candidates. The form may be completed in advance of the hire date as long as:

- an offer has been made;
- the offer has been accepted; and
- there is an approximate start date.

May we ask for or suggest certain documents?

No. It is up to the individual to bring in whichever item(s) they choose according to the lists of acceptable documents. Rather than suggest certain documents, provide the person with the lists.

What do we do when we rehire someone?

If you rehire someone within three years of the original verification date, you may be able to update their original I-9 in certain circumstances. If their original I-9 indicates the person is still eligible to work, you may update that Form I-9 by entering the rehire date in the "Reverification and Rehires" section. If you determine that the person's work authorization on the original I-9 has expired, you must reverify their work authorization with unexpired documentation. If the rehire takes place more than three years from the original verification date, a new form I-9 must be completed.

Should we photocopy the person's documents?

You are not required to photocopy an employee's documents unless you use the E-Verify system to verify employment eligibility. If you do not use E-Verify, you may, but are not required to, photocopy the documents. The photocopied documents should be stapled to the paper I-9s or electronically attached to electronic copies before placing them in your I-9 file. Whichever system you choose should be consistent for all new employees.

Where should we keep the completed forms?

Do not send I-9s to the U.S. government. They should be held by the municipality and maintained in a file that is securely locked and confidential in a location that is *separate from the employees' personnel files*. This practice prevents access to confidential personnel files in the event of an audit. You may also use an electronic storage system as long as it meets the requirements outlined in the USCIS' *Handbook for Employers, Guidance for Completing Form I-9*.

How long must I-9s be kept on file?

You must retain an I-9 for as long as an employee works for you and for six years after employment ends. This time frame, which exceeds that of federal law, is required of municipal employers in accordance with Vermont public records law.

What if we have more questions?

More information, including a Handbook for Employers, is available on the U.S. Citizenship and Immigration Services website, <https://www.uscis.gov/i-9>. Please also feel free to call Jill Muhr in the Municipal Assistance Center at 800-649-7915 or email questions to MAC-HR@vlct.org.

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