

Are You Using the New I-9 Form?

Article By:

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As the Trump administration settles in, those of us who counsel employers [have cautioned](#) to “expect the unexpected.” Certainly, the last five weeks have brought a bevy of twists and turns. However, one consistent theme from the new administration has been a tough stance on immigration-related matters. Accordingly, employers must pay close attention to the newly revised Employment Eligibility Verification — which we all refer to more commonly as the I-9 form — that is now in effect.

As we reported [last October](#), U.S. Citizenship and Immigration Services (USCIS) Department issued an updated version of the I-9 form on November 14, 2016. [According to USCIS](#), all employers are required to have begun using the new form as of **January 22, 2017**. In other words, if you are still using the prior version of the I-9 form, you must immediately switch to the latest version.

The new I-9 form, which can be [accessed here](#), has been referred to as the “Smart I-9” because employers can now access an interactive pdf version of the form, which includes a variety of technical advantages, such as:

- Drop down menus for ease in selecting dates and inserting data
- Automatic prompts in order to confirm that information is entered correctly
- Real-time error notifications, if information is not properly entered
- The ability to receive help while entering information via use of a clickable question mark
- A unique barcode attached to each form, which allows for easy identity in the event of an audit

While these advances will make it easier to complete I-9 forms, it is important to remember that the process is not completely electronic. Employers still have the option to print out a blank form and complete their entries the old fashioned way — with a pen. Or, they can fill in fields electronically and print out the completed form. But either way, the forms still must be physically printed and signed (there is no provision for electronic signatures) and stored in hard copy format.

In addition to the technical advances, the new I-9 forms contain a few substantive differences as well.

Some of these changes include:

- The “Other Names Used” field is now replaced by “Other Last Names Used.” This is intended to increase privacy and avoid potential discrimination against transgender persons whose first names may have changed.
- Foreign nationals authorized to work in the United States previously were required to provide both an I-94 number (a specific passport stamp issued by Customs Border Protection) **and** foreign passport information. With the new form an individual who claims status as a foreign national authorized to work in the U.S. can provide either an I-94 number, an alien registration number, or a foreign passport number.
- The prior I-9 form only contained one signature field for preparers or translators. This caused difficulty when multiple individuals had to squeeze their signatures into one small box. The new form allows for up to five individual preparers or translators to sign and date the form in their own individual fields.

Effective immediately, make sure that you are using the new I-9 form for all of your hires. (It is not necessary to go back and re-complete I-9 forms for existing employees). Given the administration’s focus in immigration, as well as [recently announced](#) penalty increases for I-9 violations, this is an area in which all employers should exercise extreme care.

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