



nowHIRE I-9 Comply and E-Verify FAQ



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The nowHIRE I-9 Comply and E-Verify FAQ responses are provided as a general informational service to clients and friends of nowHIRE. It should not be construed as, and does not constitute legal advice on any specific matter. Please note that the prior results discussed in this material do not guarantee similar outcomes. It is advised that you seek legal representation for your company policy.

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General Form I-9 Questions

1. Why would I use nowHIRE I-9 Comply instead of a paper-based I-9 form or E-Verify program?

E-Verify and I-9 forms are two separate issues. The government's E-Verify program only cross checks social security numbers with the Social Security Administration Department of Homeland Security databases to ensure employment eligibility. It does not protect you from costly government audit procedures for your Form I-9, it does not validate your form information, and it can take months to integrate into your HR hiring procedures. Also, if you choose to use the government E-Verify system directly, you're still stuck with a paper form to retain or scan. If you choose to scan and store your own forms, strict security rules apply as authorized in the Department of Homeland Security regulations at 8 CFR 274a.2.

Medium to large size companies who are audited on their I-9 forms must be aware that the government MAY NOT accept paper forms. If this occurs, you would have 72 hours to scan every form into a digital format, name every file, and present to the auditors. The nowHIRE system makes this request effortless. Additional reasons why you should consider using a system like nowHIRE to help manage your I-9 forms may be found within this document. Please see the answer to the question [“Why would I use a Designated Agent like nowHIRE rather than E-Verify directly?”](#)

2. What is the benefit of using electronic Form I-9s over paper Form I-9s?

Not only do electronic Form I-9s support the new “green” way of business, they help to reduce HR staff workload – especially when employing a system like nowHIRE I-9 Comply. Also, in the case of an audit, the government MAY NOT accept paper forms for medium to large size companies. You would have 72 hours to scan every form into a digital format, name every file, and present to the auditors. Further explanation may be found within this document. Please see the answer to the question [“Why would I use a Designated Agent like nowHIRE rather than E-Verify directly?”](#)

3. In the case of a name change, do we need to do a new I-9 form or update their old I-9 form?

- **Paper Based System – Original Form Expired** – If the initial I-9 was completed on an expired form, a new Form I-9 must be completed.
- **Paper Based System – Original Form Not Expired** – Just complete Section 3a – New Name. In a paper based system this process may only be completed once and then a new I-9 must be completed.
- **nowHIRE I-9 Comply System** – Just open the record and update the name. The nowHIRE I-9 Comply system will automatically update Section 3a on the I-9 form on file and post the changes or actions to the form in the audit log. This process may be completed as many times as needed unlike a paper based system.

4. Are I-9 documentation copies required for some states, in particular Colorado? If so, would we need to include copies for all states?

Colorado does require written or electronic copies of identity documents which employees present for the federal Form I-9 (<http://www.coworkforce.com/LAB/FactSheet1017.pdf>). At this time, there is no clear guidance. But given our experience, we believe it is ok to have a slightly different process in order to comply with the particular state laws. To help you stay compliant, the nowHIRE I-9 Comply system will allow you to upload any documents as needed and attach them to specific I-9 forms for future reference.

5. If during an internal audit we find that Section 1 information is missing, do we need to have the employee go back and complete this section?

Yes. The I-9 form should be fully completed. Any changes to Section 1 should be made, dated and initialed by the **employee** (the use of a different color pen is preferred and remember never erase or white out information). Utilizing a system like nowHIRE I-9 Comply provides real-time field validation with audit log tracking. You'll always be aware who made the change and can be confident that all of your I-9s have each required field completed – always assuring your compliance.

6. If during an internal audit we find that Section 2 information is missing, do we need to go back and complete this section?

Yes. The I-9 form should be fully completed. Any changes to Section 2 should be made, dated and initialed by the **employer** (the use of a different color pen is preferred and remember never erase or white out information). Also, it is acceptable if a different employee makes the change for Section 2. Utilizing a system like nowHIRE I-9 Comply provides real-time field validation with audit log tracking. You'll always be aware who made the change and can be confident that all of your I-9s have each required field completed – always assuring your compliance.

7. How long does an I-9 form need to be kept on file?

The I-9 form needs to be kept for as long as the person is employed. After employment ends, the I-9 must be kept for at least one year after termination OR three years after hired, whichever is longer. For instance, if you work at your company for 20 years, your I-9 form will need to be kept while you are employed plus one year; in this case 21 years. If you started today and quit tomorrow, your I-9 form would have to be kept for three years from the date of hire.

Unlike manual tedious tracking, the nowHIRE I-9 Comply system can keep track of hire/termination dates and automatically purge any I-9 forms when needed, eliminating exposure of expired forms to protect you in the case of an audit. The nowHIRE system also allows an integrated approach for medium sized to larger companies, which will eliminate the need for employees to manually insert termination dates into our system.

8. If documents were originally attached to I-9s and that practice was stopped, should the documentation from previous I-9s be destroyed or should they remain attached?

The old documentation should remain intact; however, it should be documented when the practice of not attaching documentation to I-9s was stopped.

9. What are the chances we would be targeted for a Form I-9 audit?

It's not just the big guys who are targeted for audits. The truth is, ICE has significantly increased its reach and has asked Congress for \$1.9 billion to increase the scope of investigations of the enforcement arm, or in other words, increase audits. The number of individuals arrested on administrative immigration violations in worksite enforcement cases has grown from 485 in 2002 under the old Immigration and Nationalization Service (INS) department to 3,667 during 2006 under the new Immigration and Customs Enforcement (ICE) department. Now with the Obama administration, the Department of Labor has seen increases in funding. Because of these increases, it is believed that Department of Labor audits of all kinds, including I-9 audits, will increase.

10. If a person is rehired after a short break in employment, can I re-verify on the previous I-9 form completed or should I have the person complete a new form I-9, especially now in the case of a new form in circulation?

- **Paper Based System –Original Form Expired** – If the initial I-9 was completed on an expired form, a new Form I-9 must be completed.
- **Paper Based System – Original Form Not Expired** – Just complete Section 3c – Establish Current Employment Authorization. In a paper based system this process may only be completed once and then a new I-9 must be completed.
- **nowHIRE I-9 Comply System** – Just open the record and update the expired document. The nowHIRE I-9 Comply system will automatically update Section 3c on the I-9 form on file. This process may be completed as many times as needed unlike a paper based system.

The above suggestion is a common response; however, each company may handle rehires differently. We recommend that employers contact their employment law counsel for a best practice that meets your company's needs.

E-Verify Related Questions

11. Do seasonal rehires need to be entered into the E-Verify system and do they need to be re-verified?

Yes. If there is no expectation that the employee would return, a new I-9 is needed each year. If the company is registered with E-Verify, each Form I-9 needs to go through the E-Verify process. There is no clear guidance on this point. Accordingly, we recommend that employers contact their employment law counsel for unusual situations such as this.

12. If you begin using E-Verify, do you have to convert all your previous I-9s?

Currently, E-Verify is only for new employees. An option to verify all employees within the company will be available for federal contractors (stated or amended in the contract) once the scheduled mandate takes effect.

The nowHIRE I-9 Comply system allows you to store all your Form I-9s in one system, even for those existing employees who you may not E-Verify. The existing employee information is uploaded into the nowHIRE I-9 Comply system easily. These forms will not process through E-Verify, but will allow you easy access in their electronic format from any location. This will also allow for form tracking and system reminders of any expiring work authorizations.

13. Why would I use a Designated Agent like nowHIRE rather than E-Verify directly?

Most Designated Agents use proprietary software which contains built-in protections for managing I-9 forms **and** E-Verify. E-Verify alone is just a bare bones verification system. nowHIRE's software not only allows you to E-Verify, but helps to keep you I-9 compliant by including the following protections and services:

- Management of new, existing and missing I-9 forms. I-9 forms may be processed electronically or paper-based and stored digitally for centralized review. With unlimited digital storage of I-9 forms and any supporting documents in a central location, it is easy to retrieve any documents you may need with no additional fees.
- A nowHIRE training site which is attached to the E-Verify test systems providing practice with live results. This allows you to safely "try-out" the system before entering "live" information – providing quick and efficient employee training.
- Dedicated customer service to help you with your questions and training needs.
- A Dashboard view with drill-down capabilities allows an at-a-glance view to all open issues by category, and highlighted by importance.
- Real-Time Entry Validation ensuring forms are completed correctly the first time.
- Summary report emailed weekly to help you keep on top of any open issues or monitor the status of locations.
- An Audit Log that tracks ALL actions (including viewing, printing and modifications) related to the I-9 form – shows that high value is placed on the security of sensitive personnel information.
- SSN Duplication Alert consisting of a company-wide search of your existing employees ensuring that you are informed of possible Social Security Fraud.
- Notice of expiring work authorizations beginning at 180 days out, including email notification and Dashboard reminders – replaces the tedious task of keeping your workforce in compliance.
- A step-by-step resolution process for the tentative non-confirmation process, including simple instructions and necessary form letters. Provides a standardized method that eliminates confusion and possible discrimination.
- Automatic termination monitoring which allows you to update termination dates individually or via file imports.
- Automatic purging of any I-9 forms for terminated employees (three years after hired or one year after termination) eliminates exposure of expired forms if audited.

- Digital storage that includes a searchable database for ALL I-9 forms, including review, auditing and re-verification. Conversion of paper forms to digital allows management of existing and new I-9 forms.
- A web-based management system allowing managers immediate access to the system from any internet connection. It also provides simple, consistent I-9 compliance and E-Verify processes for each company location – and capacity for unlimited locations.
- Multiple permission levels to provide optimal access while maintaining confidentiality.
- E-Signature Act compliant, eliminating the need for separate signature files or forms.
- NO Required Mastery Testing when using our system – With E-Verify employees must complete a course and pass a test before they begin.

14. Does participation in E-Verify provide Safe Harbor from worksite enforcement?

An employer who uses E-Verify to verify work authorization establishes a rebuttable presumption that it has not knowingly hired an unauthorized worker. E-Verify is not a guarantee of Safe Harbor nor a Safe Harbor from worksite enforcement; however, companies who use E-Verify are looked upon in a more favored light, as they are trying to do the most possible to ensure they are hiring eligible employees.

15. If a company is NOT a federal contractor, what is the greatest advantage of using E-Verify?

E-Verify is currently the best means available for employers to electronically verify the employment eligibility of their newly hired employees. The program virtually eliminates Social Security mismatch letters, improves the accuracy of wage and tax reporting, protects jobs for authorized workers, and helps you to maintain a legal workforce. Also, some state agencies look favorably upon contractors who E-Verify and may help win the bid process. And although E-Verify does not guarantee Safe Harbor, an employer who uses E-Verify to verify work authorization establishes a rebuttable presumption that it has not knowingly hired an unauthorized worker.

16. Since the nowHIRE system allows us to bypass the E-Verify mastery testing, how will we understand how to handle no-match or tentative non-confirmations?

The E-Verify mastery testing trains you on the E-Verify system without going into much detail on how to handle the I-9 and E-Verify processes. Companies that register with nowHIRE as their Designated Agent are permitted to bypass the two hour mastery testing. Using a system like nowHIRE I-9 Comply, will not only provide access to a live training site so you may test different result scenarios at any time, you will also have live staff available to answer any questions or provide additional support if needed. Also, for each employee, the nowHIRE I-9 Comply system provides a standardized method, walking you through every step of the I-9 and E-Verify process. nowHIRE I-9 Comply is a best practices method to help you to avoid any possible discrimination matters.

17. When should the employer initiate the E-Verify verification?

The E-Verify employment eligibility verification must be completed within **3 business days** after each employee has been hired. The earliest an employer may initiate a query is after an individual

accepts an offer of employment and after the employer and employee complete the I-9 form. Although the employer may initiate the query before a new hire's actual start date, it **may not pre-screen applicants and may not delay training or an actual start date based upon a tentative non-confirmation or a delay in the receipt.**

18. Should a paper copy from the E-Verify system be attached to the actual paper copy of the I-9 and how would this relate to something electronically?

If working in E-Verify directly, you would need to record the E-Verify case number on the employee's I-9 form or print the screen containing the case verification number and attach it to the employee's I-9 form. If using the nowHIRE I-9 Comply system, the case number is automatically associated with the I-9 form for easy access during an audit. Also, if any other paper documentation should need to be associated with the I-9 form, you may upload an electronic copy through the nowHIRE I-9 Comply system.

19. Do existing employees assigned to a federal contract need to be E-Verified?

Once the regulation takes effect, federal contractors who are required to E-Verify (stated or amended in the contract) must E-Verify all employees working on the federal contract, including existing employees working on the federal contract only. An option to verify all employees within the company will be available for federal contractors once the mandate takes effect. If the option to verify all employees is chosen, the company must E-Verify everyone within 180 days of notification to the DHS.

Support Related Questions

20. How do we sign up for nowHIRE I-9 Comply and E-Verify?

Please call 800-724-8546 to speak with a sales representative or [Click Here](#) to request a demonstration of our system. Let us help you be I-9 compliant!

21. Helpful Links

- The USCIS Form I-9 manual: http://www.uscis.gov/files/native/documents/m-274_3apr09.pdf
- Most current version of the Form I-9. Please click on this link: [Form I-9 \(Rev. 02/02/09\) N](#)
- Government agencies affiliated with the Form I-9. Just click on each agency below to view their contact information:

[U.S. Citizenship and Immigration Services](#)

[Department of Homeland Security](#)

[U.S. Immigration and Customs Enforcement](#)