

How To Conduct Your Own I-9 Audit

1. Generate a list of employees hired since November 6, 1986. The list should show last name, first name, date of hire, date of termination, and some distinguishing fact, e.g., SSN or DOB, in case two employees have the same name.
2. Calculate the retention dates for persons on the list by comparing date of hire, date of termination, and date of your self-audit. Write down the date that is one calendar year prior to the audit date - this becomes the target termination date. Then subtract two years to get the target hire date. (Forms can be discarded for persons hired before the target hire date whose employment ended before the target termination date.) Highlight or cross off the names of the employees on the list whose I-9 forms need no longer be retained.
3. Pull forms for highlighted names from the I-9 file. Confirm that you need no longer retain the form by checking that the two retention tests (three years from date of hire and one year from date of termination) have been met and discard the appropriate I-9's.
4. Begin checking I-9 forms, working in the same order as the names on the list. As each form is reviewed, put a check mark on the list next to the appropriate name. Set aside forms for whom there is no name on the list as you go through it, as these are probably forms for people whose names changed.
5. Use "stick-on" notes to show problems with the forms. Be aware that forms may have multiple problems.
6. Begin correcting forms that have been reviewed. If you have retained photocopies of documents, many form deficiencies may be cured. Information from employee personnel files may also be helpful. If you add to Section 1 of the form, remember to complete the Preparer/Translator portion of the form. If using the new form, use the audit date as the date to insert in the Preparer/Translator portion of the form, since it is better to have a "late completion" problem than missing information on the form. If information is added to the form, use the same color ink. Do not use "White Out" to cover up incorrect information or for any other purpose; instead simply cross out the incorrect information.
7. If necessary, ask employees to sign or date Section 1 of the form or present correct documents.
8. As forms are corrected, cross out deficiencies on the "stick-on" notes. When all items are crossed out, remove the "stick-on" note. When the form is correct, re-file it.
9. There may be some forms which cannot be cured. You may have terminated employees from whom you accepted invalid documents, but

- the form cannot yet be discarded. Annotate the list to show a “major” problem, remove the “stick-on” note, and re-file the form. Create a “tickler” file or some other system to remind you to discard defective forms when you no longer need them.
10. When you have reviewed all forms and corrected all deficiencies, review the annotated list to see what forms you are missing. See if any of the forms you set aside for lack of a name on the list should be filed under a different name.
 11. If a significant number of forms are missing or defective for terminated employees, consider keeping separate I-9 files for current and terminated employees. There is less likelihood that ICE will ask to see forms for terminated employees if the forms for current employees are in good shape.
 12. Add up the number of missing forms and major problems to calculate your exposure. Missing forms are generally penalized at around \$800 per form for the record-keeping violation plus around \$1500 per form for a knowing employment violation. (ICE assumes that persons without forms are illegal.) Major problems usually result in fines of between \$600 and \$800 per form. **Source:** Fisher & Phillips , <http://www.laborlawyers.com/>

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