

CHECKLIST | Form I-9: Internal Audit

Presented by TROXELL

Federal law requires employers to hire only individuals who may legally work in the United States—either U.S. citizens or authorized foreign nationals. To comply with the law, employers must verify the identity and employment authorization of each individual they hire by completing and retaining the Employment Eligibility Verification form (Form I-9). Employers must have a completed Form I-9 for every employee hired after Nov. 6, 1986.

Complying with Form I-9 requirements accurately and in a timely manner is difficult. The risk employers face for any errors is real and can be extremely expensive. Employers that fail to comply with Form I-9 requirements can face severe consequences, including civil and criminal penalties.

Despite employers' best efforts, compliance with Form I-9 requirements can be complex and is rarely foolproof. Though they can be time-consuming and labor-intensive, internal audits can be a systematic means for organizations to ensure compliance with federal law.

Overview

This checklist outlines the steps for conducting an internal audit of your organization's Forms I-9. This checklist is intended to be used as a guide, and not all of the following steps are necessary for an organization's internal audit. The audit process may differ based on your organization's size and other factors; thus, the steps in this list should be modified to meet the unique needs of your organization. This checklist is to be completed by someone trained in Form I-9 requirements, such as an HR representative, to help ensure a smooth audit process.

This checklist provides an overview of a Form I-9 internal audit and should not be construed as legal advice. Due to the complex nature of Form I-9 compliance, employers are encouraged to seek legal counsel to discuss and address specific issues and concerns.

Preparing for the Internal Audit	
Obtain a copy of the U.S. Citizenship and Immigration Services' (USCIS) "Handbook for Employers M-274" to reference, if necessary.	<input type="checkbox"/>
Download the current version of Form I-9 from USCIS' website.	<input type="checkbox"/>
Create a list of currently employed employees hired after Nov. 6, 1986.	<input type="checkbox"/>
Create a list of all employees terminated in the past three years.	<input type="checkbox"/>
Gather Forms I-9, either original or electronic, for all current employees and employees terminated in the past three years.	<input type="checkbox"/>
Verify there is a completed Form I-9 for all current employees.	<input type="checkbox"/>
Complete Form I-9 for any current employees that do have a completed form.	<input type="checkbox"/>

This checklist is merely a guideline. It is neither meant to be exhaustive nor meant to be construed as legal advice. It does not address all potential compliance issues with federal, state or local standards. Consult your licensed representative at TROXELL or legal counsel to address possible compliance requirements. © 2022 Zywave, Inc. All rights reserved.

After gathering completed Forms I-9 and creating employee lists, employers can proceed with their internal audit by following the steps below. An internal audit may differ based on an organization’s size and other factors. For smaller employers, it may be best to review every Form I-9. But for larger employers, this may not be practical. Accordingly, if larger employers decide not to review every Form I-9 and review only a sample of its forms instead, they need to ensure the criteria they use to select which forms will be audited are not discriminatory.

Review Section 1 of Form I-9	
Ensure the employee’s name—including past or present last names—address and date of birth are completed.	<input type="checkbox"/>
Verify that the appropriate citizen or immigration status box is checked.	<input type="checkbox"/>
If the employee is a lawful permanent resident, confirm the employee has provided their seven- to nine-digit Alien Registration Number or USCIS Number.	<input type="checkbox"/>
If the employee lacks permanent legal status, verify the employee has provided an Alien Registration Number, USCIS Number, Form I-984 Admission Number or foreign passport number.	<input type="checkbox"/>
Verify that the employee signed and dated Section 1 no later than the first day of their employment.	<input type="checkbox"/>
If someone other than the employee completed Section 1, ensure the preparer or translator section is completed.	<input type="checkbox"/>

Review Section 2 of Form I-9	
Confirm the employee’s name is the same as it appears in Section 1.	<input type="checkbox"/>
Verify that the citizenship or immigration status number is consistent with the information the employee provided in Section 1.	<input type="checkbox"/>
Ensure one document from List A or a combination of one document from List B and List C are listed in Section 2 and all information is recorded accurately.	<input type="checkbox"/>
Check that all documents for Section 2 have been entered under the correct list.	<input type="checkbox"/>
Confirm the employee’s first date of employment is entered and accurate.	<input type="checkbox"/>
Ensure the organization’s representative has signed and printed their name and dated the form within three days of the employee’s first day of employment.	<input type="checkbox"/>

Confirm the organization's name and full address are recorded.	<input type="checkbox"/>
Verify there are copies of the employee's documents if the organization retains photocopies of employee documents.	<input type="checkbox"/>

Review Section 3 of Form I-9

If the employee was rehired within three years from the date of the previously completed Form I-9, verify Block A and B are completed, along with the name of the organization's representative, signature and title that completed Section 3.	<input type="checkbox"/>
If the employee's work authorization has expired, verify that Block A, B and C are completed, along with the name of the organization's representative, signature and title that completed Section 3.	<input type="checkbox"/>
Entered the employee's new name in Block A if the employee's name has changed.	<input type="checkbox"/>

Correcting Errors

For any errors discovered in Section 1, ask the employee to correct the errors by drawing a line through the incorrect information, entering the correct information, and initialing and dating the correction.	<input type="checkbox"/>
For any errors discovered in Sections 2 and 3, draw a line through the incorrect information, enter the correct information, and initial and date the correction.	<input type="checkbox"/>
For forms with multiple errors, complete the section containing multiple errors on a new Form I-9 using the current version of the form. Attach the newly completed form to the original form and include a memo describing any changes and explaining why a new form was completed.	<input type="checkbox"/>
For employees who do not have a completed Form I-9, ask the employee to complete Section 1, inspect the employee's identity and employability documents, and complete Section 2. Enter the employee's original date of hire and the date the form is completed.	<input type="checkbox"/>
For employees who do not have a completed Form I-9 but are no longer employed, draft a memo for each employee missing a Form I-9 explaining why there is no completed form for those employees. Store these memos with the organization's Form I-9 files.	<input type="checkbox"/>

Audit Log

Document all errors and corrections made during the internal audit.	<input type="checkbox"/>
Retain the audit log with the organization's Form I-9 files.	<input type="checkbox"/>

Internal audits can be expensive, time-consuming and tedious for any organization. This is especially true for organizations with a high number of employees or organizations in industries with high turnover rates, such as restaurants. However, internal audits can be worth the time and effort; when done regularly, they can improve compliance with federal law, increase operational and administrative efficiency and save your organization time and money by helping to avoid government audits, fines and penalties.

For more information about Form I-9, contact TROXELL today.