

Reminder: USCIS Requires Use of New Form I-9 Effective November 1, 2023



The image shows the top portion of the USCIS Form I-9, titled "Employment Eligibility Verification". It includes the USCIS logo, the Department of Homeland Security seal, and the form title. Below the title, there are instructions for employers and employees, and a section for "Section 1: Employee Information and Attestation". The form is dated 08/01/2023.

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The U.S. Citizenship and Immigration Services (USCIS) released a new Form I-9 on August 1, 2023. Employers must switch to the new Form I-9 **no later than** November 1, 2023. Thereafter, employers who continue to use the older form will be subject to penalties. The version date can be found in the lower left corner of the form.

The new form and the corresponding instructions can be located and downloaded from the [USCIS website](#).

In addition to clerical edits reorganizing the sections and reducing the length of the Form I-9, the new Form allows employers who participate in E-Verify and are in good standing to continue remotely reviewing employee documentation to verify authorization to work provided certain conditions are met.

Employers should update their new hire packets with the new Form I-9 to ensure all new hires are completing the 08/01/2023 Form I-9 Edition by November 1, 2023.

As a general reminder, the USCIS regulations currently permit an employer to designate, hire, or contract with a third party to review and verify the identity of new hires and complete the Form I-9 on behalf of the employer. This can be especially helpful when hiring a remote employee. A designated third party includes a member of the general public, personnel officer, foreman, agent, or a notary public (*except in California which prohibits notaries from acting as an agent to complete a Form I-9 unless the notary is also bonded as an immigration consultant*). For employers hiring employees outside of California, the employer can contract with a notary public residing or available in the same area where the remote employee is located to review and authenticate the documents and complete Section 2 of the Form I-9. Upon locating a notary to complete this task, the employer should send the notary an email authorizing the notary to undertake the review along with the current Form I-9 for completion. The Notary should then meet with the employee, review the documents, complete Section 2 of the Form I-9, and return the completed Form to the employer. The notary should not notarize the Form I-9, as the notary only needs to complete Section 2 as the agent for the employer.

It is essential that the agent the employer designates to complete the Form I-9 and review the documents is

trustworthy and competent to properly conduct the verification process, as the employer is ultimately legally responsible for the agent's acts and/or omissions in completing the Form I-9 verification process. Careful selection of a qualified agent is essential to minimize potential liability stemming from deficient or improper Form I-9 completion.

On May 5, 2023, DHS announced the official end date of the COVID-19 pandemic temporary flexibilities [as discussed in more detail here](#).

Employers should consult legal counsel for additional details regarding these obligations.

Legal Disclaimer:

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