

U.S. Immigration and Customs Enforcement website states that, “effective worksite enforcement plays an important role in the fight against illegal immigration.” It goes on to say that under federal law, employers are required to verify the identity and employment eligibility of all individuals they hire, and to document that information using the “Employment Eligibility Verification Form I-9.”

Employers are required to produce their company’s I-9s within three business days of a “notice of inspection,” after which ICE will conduct a site inspection for compliance. If businesses are not in compliance with I-9 reporting, then hefty civil fines could lead to criminal prosecution. **Recall the recent 7-Eleven ICE raids!**

To comply, employers must verify new hires’ identities and eligibility to work in the United States and document this information on the I-9 Form (latest form is dated 07/17/17). An I-9 must be completed for everyone hired, regardless if that individual is a US Citizen or a foreign national.

Take the time to put a process in place and follow the guidelines and instructions provided by USCIS.

THE I-9 and Best Practices.

Section 1 – Employee Information and Attestation. This section is completed by the employee. Employee must provide their full legal name, current address and date of birth. The employee must attest under penalty of perjury of their citizenship or employment authorization immigration status, Alien number or Admission number and the date employment authorization expires. The employer must review the information and make sure that the employee filled out all the required fields.

Section 2 – Employer reviews and verifies! This section is completed by the employer within THREE BUSINESS DAYS of the employee’s first day of work. The employee chooses and then presents the unexpired original documentation that proves the identity and employment authorization. Make certain that you are using the latest version of the I-9 form which is available on the USCIS website.

The employer or an authorized representative should examine the original document the employee presents and then fully complete Section 2 of the I-9 Form noting the title, issuing authority, number and expiration date, if any, of the document, fill in the date employment began in the certification block, and sign and date the Form I-9. It is important to fill out the date the employee began work for pay and the date the employer examined the documentation the employee provided. **Leaving this information blank can subject the employer to severe penalties.**

Section 3 – Pay strict attention with Reverification and Rehires

As per USCIS I-9 Instructions, reverification in Section 3 must be completed PRIOR to the earlier of:

- The expiration date, if any, of the employment authorization stated in Section 1, or
- The expiration date, if any, of the List A or List C employment authorization document recorded in Section 2. (There are certain exceptions but in the interest of space and time proceed to the <https://www.uscis.gov/i-9> for additional instructions.

Rehires in Section 3 require that, if an employee is rehired within three years from the date the Form I-9 was previously executed, you may either rely on the employee’s previously executed Form I-9 or complete a new Form I-9. Employees hired after three years need to complete a new I-9. HOWEVER, there are additional guidelines to follow when choosing to rely on a previously completed Form I-9. Those can also be found at <https://www.uscis.gov/i-9>.

Employers must have completed Forms I-9 on file for each employee and must retain original I-9 Forms. Completed I-9s must be made available for inspection by authorized government officials. The I-9 Forms may be stored electronically BUT there must be certain controls to ensure the integrity, accuracy and reliability of the storage system and must be available to print upon request.

If you have questions about the eligibility of a potential employee or wish to file a petition to allow a foreign national to obtain the required immigrant visa or non-immigrant visa which would allow them to work in the U.S., you need to contact the Law Office of Mercedes Altman immediately.

Mercedes Altman runs her own Immigration and International Trade practice and is very proud to be part of the JFK Airport Community serving as Executive Director of the John F. Kennedy International Airport Chamber of Commerce. Mercedes can be contacted directly at Mercedes@mcawgroup.com.