

## Legal – I-9 Verification

### EMPLOYMENT VERIFICATION PROCEDURE I-9's

The I-9 is a deceptively simple, one-page form that must be completed and signed by both the employer and the employee whenever an employee is hired.

**The employee's obligation:** Section one of the I-9 must be completed and signed by every employee, irrespective of his immigration status. The employee must attest that he/she is a United States citizen, lawful permanent resident or is otherwise authorized to work for the employer.

**The employer's obligation:** Section two of the I-9 must be completed and signed by every employer whether he employs thousands of employees or only one. The employer must ask each employee to document their identity and their eligibility to work. The back of the I-9 lists 12 documents that may be used to establish identity (List B), seven documents to establish employment eligibility (List C) and ten documents which establish both (List A).

The employer must physically examine each document presented by the employee to determine whether it appears to relate to the employee, appears to be genuine and is listed on the back of the I-9. An employer can only accept documents from the I-9 list but may not specify which documents will be acceptable for employment verification. It is only when an employee presents documents not appearing on the list that the employer may ask for additional proof of identity and/or employment authorization. An employer who requests specific documents, such as a driver's license and a social security card, may be charged with document abuse and fined accordingly.

After examination of the documents provided by the employee, the employer must complete section two of the I-9 specifying which document or documents an employee provided to show identity and employment eligibility, the issuing authority, document number and expiration date. Documents from List A establish both identity and employment eligibility. If an employee presents a document from List A, the employer should not request to see any documents from List B or C. However, if the employee does not present a document from List A, they must provide the employer with one document from List B and one from List C. List B documents including driver's licenses and school identification cards, establish identity but do not demonstrate employment authorization. Conversely, List C documents such as social security cards, establish employment eligibility but do not prove identity.

Section three of the I-9 should only be completed by employers who are updating and re-verifying the employment authorization of an employee whose previous authorization has expired. For example where an INS-issued work authorization card is scheduled to expire.

**Retention of I-9's:** Employers must retain all I-9's for at least three years after the date of hire or for one year from the date an individual's employment is terminated – whichever is later. The

retention of the I-9 is an obligation that takes on profound importance in the event of a government inspection.