

The 2023 I-9 Rollercoaster: Top 5 Form I-9 Updates and Tips to Help You Prepare for 2024

EQUIFAX[®]

Workforce
Solutions

Honeywell



Thanks for joining our webinar



Welcome!

Thank you for joining our webinar. Stay tuned for more from Equifax Workforce Solutions!



Questions?

Please enter your questions in the chat box on your screen at any point during the presentation.



Recording

This webinar is being recorded. You will receive an email with a link to view the recording in the coming days.



To keep our lawyers happy



The information provided herein is intended as general guidance and is not intended to convey specific tax or legal advice. For a legal opinion, please consult your lawyer.



This presentation is intended for the education and benefit of our customers and potential customers. This webinar cannot be shared with third parties.



The views expressed are those of the discussion leader(s) and do not necessarily reflect official positions of Equifax.



Copyright © 2023, Equifax Inc., Atlanta, Georgia. All rights reserved. Equifax is a registered trademark of Equifax Inc.

Investor analysts should direct inquiries via the 'Contact Us' box on the Investor Relations section at [Equifax.com](https://www.equifax.com).



Today's Presenters



Heather Farinas

Solutions Consultant
Equifax Workforce Solutions



John Fay

Director, Product Strategy
Equifax Workforce Solutions



To set the stage for today's discussion...



Today's Agenda: Year in Review



1. Changes in I-9 Documentation
2. Review of I-9 Penalty Decisions
3. End of COVID Era I-9 Flexibilities
4. New Virtual Document Review
5. E-Verify Developments

But wait, there's more....

- How Equifax Can Help
- Questions and Answers



Changes in I-9 Documentation (For Lawful Permanent Residents)



New Green Card Design for 2023

Old (2017)

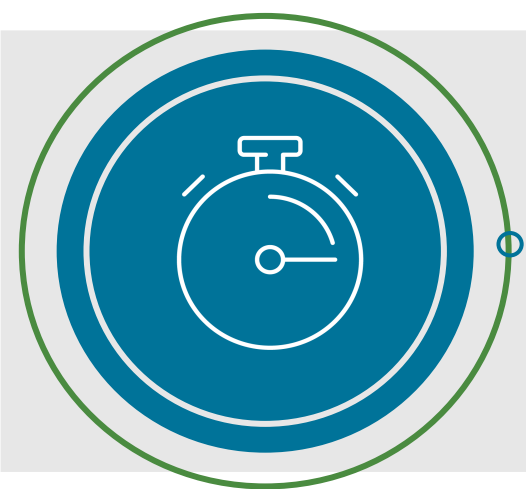


New (2023)



Source: <https://www.uscis.gov/newsroom/news-releases/uscis-redesigns-green-card-and-employment-authorization-document>





Can you ever accept an *expired* green card for Form I-9 purposes?

LISTS OF ACCEPTABLE DOCUMENTS		
All documents containing an expiration date must be unexpired. * Documents extended by the issuing authority are considered unexpired. Employees may present one selection from List A or a combination of one selection from List B and one selection from List C. Examples of many of these documents appear in the Handbook for Employers (M-274).		
LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity AND LIST C Documents that Establish Employment Authorization
1. U.S. Passport or U.S. Passport Card		1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		2. Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240)
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa		3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
4. Employment Authorization Document that contains a photograph (Form I-766)		4. Native American tribal document
5. For an individual temporarily authorized to work for a specific employer because of his or her status or parole: a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: (1) The same name as the passport; and (2) An endorsement of the individual's status or parole as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.		5. U.S. Citizen ID Card (Form I-197)
6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI		6. Identification Card for Use of Resident Citizen in the United States (Form I-179)
		7. Employment authorization document issued by the Department of Homeland Security For examples, see Section 7 and Section 13 of the M-274 on uscis.gov/i-9-central . The Form I-766, Employment Authorization Document, is a List A, Item Number 4, document, not a List C document.
		For persons under age 18 who are unable to present a document listed above:
		10. School record or report card
		11. Clinic, doctor, or hospital record
		12. Day-care or nursery school record
Acceptable Receipts May be presented in lieu of a document listed above for a temporary period. For receipt validity dates, see the M-274.		
• Receipt for a replacement of a lost, stolen, or damaged List A document. • Form I-94 issued to a lawful permanent resident that contains an I-551 stamp and a photograph of the individual. • Form I-94 with "RE" notation or refugee stamp issued to a refugee.	OR	Receipt for a replacement of a lost, stolen, or damaged List B document. Receipt for a replacement of a lost, stolen, or damaged List C document.
*Refer to the Employment Authorization Extensions page on I-9 Central for more information.		
Form I-9 Edition 08/01/23 Page 2 of 4		

LISTS OF ACCEPTABLE DOCUMENTS		
All documents containing an expiration date must be unexpired. * Documents extended by the issuing authority are considered unexpired. Employees may present one selection from List A or a combination of one selection from List B and one selection from List C. Examples of many of these documents appear in the Handbook for Employers (M-274).		
LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity AND LIST C Documents that Establish Employment Authorization

*Refer to the [Employment Authorization Extensions page](#) on I-9 Central for more information.



Form I-9: Expired Green Card Scenarios

Expired green card



+

I-797 Receipt

THE UNITED STATES OF AMERICA
I-797 | NOTICE OF ACTION | DEPARTMENT OF HOMELAND SECURITY
U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Receipt Number	USCIS Online Account Number	Case Type
		I90 - APPLICATION TO REPLACE PERMANENT RESIDENT CARD
Received Date	Priority Date	Applicant
08/15/2021	08/15/2021	
Notice Date	Page	
10/21/2022	1 of 1	

Notice Type: Receipt Notice
Received Amount: \$ 540.00 U.S.
Paid

Thank you for submitting your application. Our office is currently processing it.

This notice, together with your Form I-551, Permanent Resident Card (also known as the Green Card), provides evidence of your lawful permanent resident status for 24 months from the expiration date on the front of your Permanent Resident Card. You remain authorized to work and travel. This notice, presented with your expired Permanent Resident Card, is evidence of your status and work authorization.

New in 2023: Extended Time Frames

Type	Form I-9 Use	How long?	Reverification
Extension (I-90)	List A	Up to 24 months	No reverification
Naturalization (N-400)	List A	Up to 24 months	No reverification
Removal of Conditions (I-751 or I-829)	List C (+ List B as well)	Up to 48 Months	Yes, any List A or List C document

For more information:

<https://www.uscis.gov/i-9-central/form-i-9-resources/handbook-for-employers-m-274/70-evidence-of-employment-authorization-for-certain-categories/71-lawful-permanent-residents-lpr>

Call to Action: I-9 Documentation



1. Review your internal I-9 training
2. Ensure you're keeping up with latest I-9 policy updates
3. Consider document review alternatives



Tip: Visit I-9 Central for the latest I-9 Policy Changes

<https://www.uscis.gov/i-9-central>



Review of 2023 I-9 Penalty Decisions and Settlements



The Case of Good Faith, Too Late

Summary



Issued: August 29, 2023

Industry: Oil and Gas

Total Penalties: \$83,500

Per I-9 Fine: Variable based on error type

Source: <https://www.justice.gov/eoir/page/file/1595306/download>

Notable Issues

- 100% error rate for 55 I-9s (both current and recently terminated employees)
- Company completed new I-9s for all current employees after ICE issued a Notice of Inspection
- Company liable for all errors - “good faith” reduction in fines may be appropriate when employer takes steps to fix an issue **before** an investigation



The Case of Unfair I-9 Practices

Summary



Issued: November 20, 2023

Industry: Transportation

Total Penalties: \$700,000

Per I-9 Fine: N/A

Source:

<https://www.justice.gov/opa/pr/justice-department-secures-agreement-tennessee-trucking-companies-resolve-allegations-hiring>

Notable Issues

- DOJ alleged that companies routinely required Lawful Permanent Residents and non-citizens authorized to work to produce List A documents
- DOJ initiated the investigation based on their own intel (often from other government agencies)
- Companies also agreed to train their HR staff and submit to ongoing monitoring for 3 years



The Case of the Large Potential Penalty

Summary



Issued: Sept 20, 2023

Industry: Staffing

Total Penalties: \$5.7 million

Per I-9 Fine: N/A

Source:

<https://www.justice.gov/eoir/page/file/1596071/download>

Notable Issues

- More than 2,000 alleged I-9 violations for failure to ensure proper completion of the I-9s, or, in the alternative, failure to prepare the I-9s
- ICE and company requested to delay the proceedings while they explore settlement discussions
- Court agreed to temporarily pause the proceedings until January, 2024



Call to Action: I-9 Remediation



1. Consider an I-9 Self Audit
2. Correct issues before an investigation
3. Look for potential pattern or practice violations



Tip: the agencies have published guidance on conducting a self audit

<https://www.justice.gov/crt/file/798276/download>

An important factor in assessing an employer's good faith is the steps they took before ICE showed up.



The End of COVID Era I-9 Flexibilities



COVID Virtual I-9 Flexibilities Come to an End



COVID-19 Virtual Policy Ends as of July 31, 2023

Employers taking physical proximity precautions due to COVID-19 were permitted to examine documents remotely followed by an in-person inspection when normal operations resume

Employers instructed to complete any necessary follow-up inspections

On May 4, 2023, Immigration and Customs Enforcement (ICE) announced that employers must complete the required follow-up inspections by **August 30, 2023**

Certain employers may also use the new virtual process to conduct the inspection if the employee was submitted to E-Verify

Source: <https://www.ice.gov/news/releases/ice-updates-form-i-9-requirement-flexibility-grant-employers-more-time-comply>



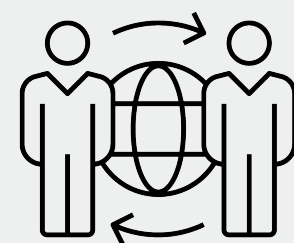
COVID Follow-up Inspections: Key Takeaways



Scope of Review

Only applies to I-9 documents that were inspected through video, email, or digital upload between Mar. 20, 2020, through July 31, 2023

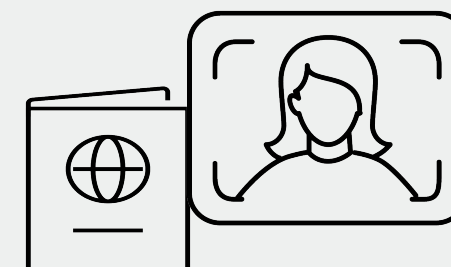
<https://www.ice.gov/news/releases/ice-updates-for-m-i-9-requirement-flexibility-grant-employers-more-time-comply>



Follow-up Inspections

If a different reviewer is used, ICE prefers a new Section 2 to be completed during the follow-up inspection

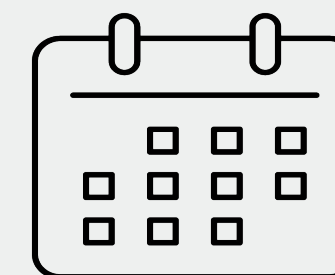
<https://www.ice.gov/doclib/coronavirus/DHSI-9extensionGuidance.pdf>



Different Documentation

Employees can present different documentation during the follow-up review (in which case, ICE prefers a new Section 2)

<https://www.ice.gov/doclib/coronavirus/DHSI-9extensionGuidance.pdf>



Good Faith Efforts

ICE has encouraged employers to conduct the follow-up inspections, even if they missed the Aug 30 deadline

<https://www.dhs.gov/news/2023/07/21/dhs-provide-s-employers-certainty-and-new-flexible-option-employment-eligibility>



Call to Action: COVID-19 Follow-up Inspections



1. Ensure you've completed all of your follow-up inspections
2. Take advantage of a potential "good faith" exception before too much time passes
3. Annotate I-9s of terminated employees whose documents could not be inspected



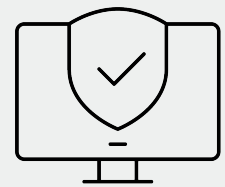
Virtual I-9 Process (Alternative Procedure for Inspecting Documents)



Virtual Review and the New Form I-9

Effective August 1, 2023, qualifying employers may use an **alternative procedure** for examining Form I-9 documents **virtually** in lieu of a physical in-person inspection

Virtual Key Requirements



Must use E-Verify at participating hiring sites



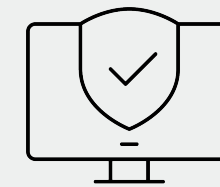
Remote document review and live video interaction



Must retain document copies



Check the alternative procedure box on the I-9

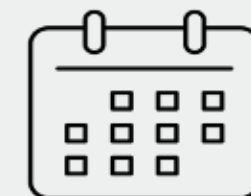


New Form I-9

Sections 1 and 2 are on one page (in a condensed format)



Supplement A: Preparer and/or Translator
Supplement B: Reverification and Rehire



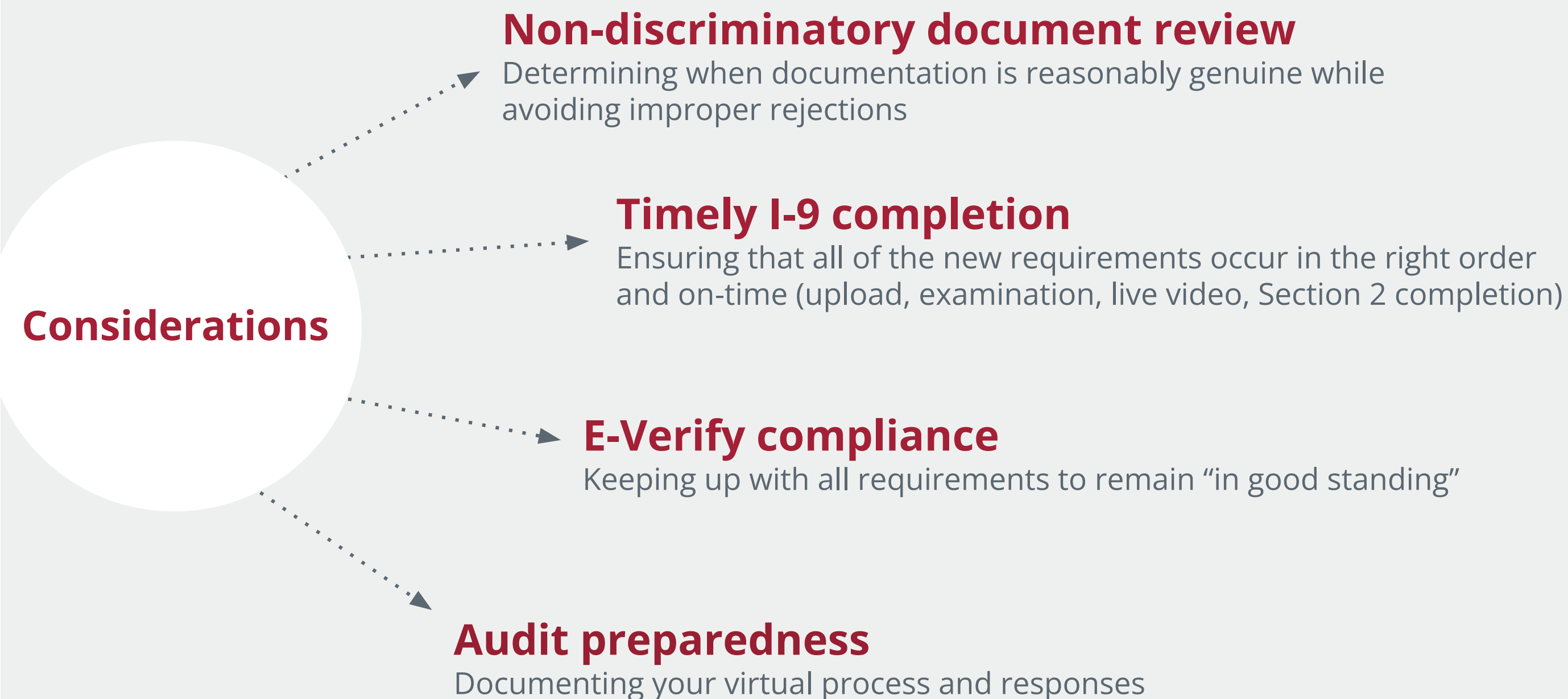
Must be used starting November 1, 2023



Includes new checkbox in Section 2 and Supplement B



Implementing Virtual Review



Requirements that are inherent in the regulations but may not be fully considered



Call to Action: New Virtual Option



1. Review the requirements and overall workflow
2. Decide if it's right for your organization
3. Devise a plan for implementation (and consider an outsourcing option)



E-Verify Obligations on the Rise



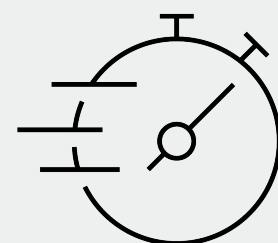
E-Verify Developments in 2023



State Laws

Florida now requires E-Verify for private employers with 25 or more employees

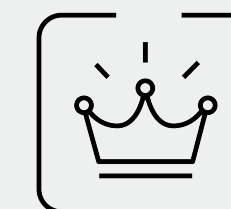
<https://www.flsenate.gov/Committees/BillSummaries/2023/html/3092>



SSA Referred Cases

E-Verify mismatch (TNC) cases referred between March 2, 2020 and July 14, 2022 must have been resolved no later than September 29, 2023

<https://www.e-verify.gov/social-security-administration-resumes-e-verify-operations>



E-Verify Good Standing

In order to use the virtual review process, employers must remain in “good standing” with all E-Verify requirements

<https://www.uscis.gov/i-9-central/remote-examination-of-documents>

The latest E-Verify news can be found here:
<https://www.e-verify.gov/about-e-verify/whats-new>



Call to Action: E-Verify Obligations



1. Check for pending TNCs and FNCs to ensure timely resolution
2. Review your organization's overall E-Verify process
3. If not using E-Verify across the organization, review state requirements



I-9 Anywhere Employer Features

I-9 Anywhere helps you:



Simplify workflows

Engage local and/or virtual completers

More safely capture documents

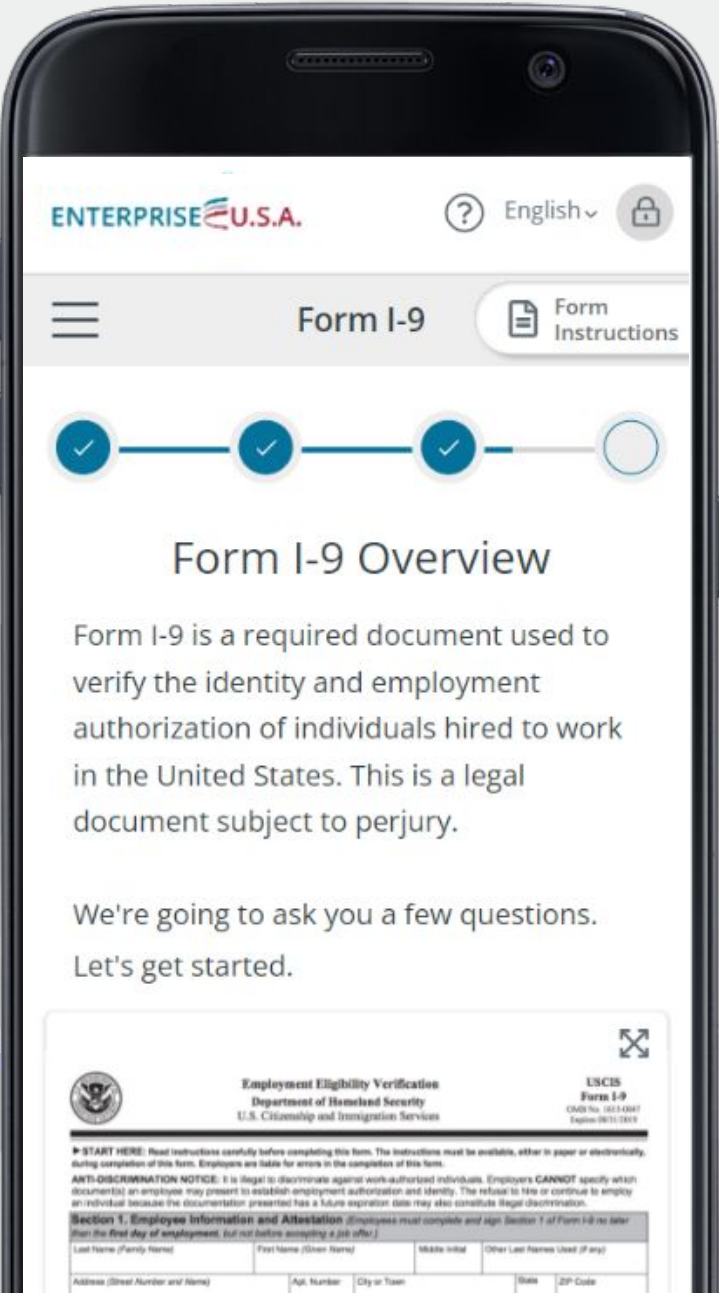
Standardize the Form I-9 completion process



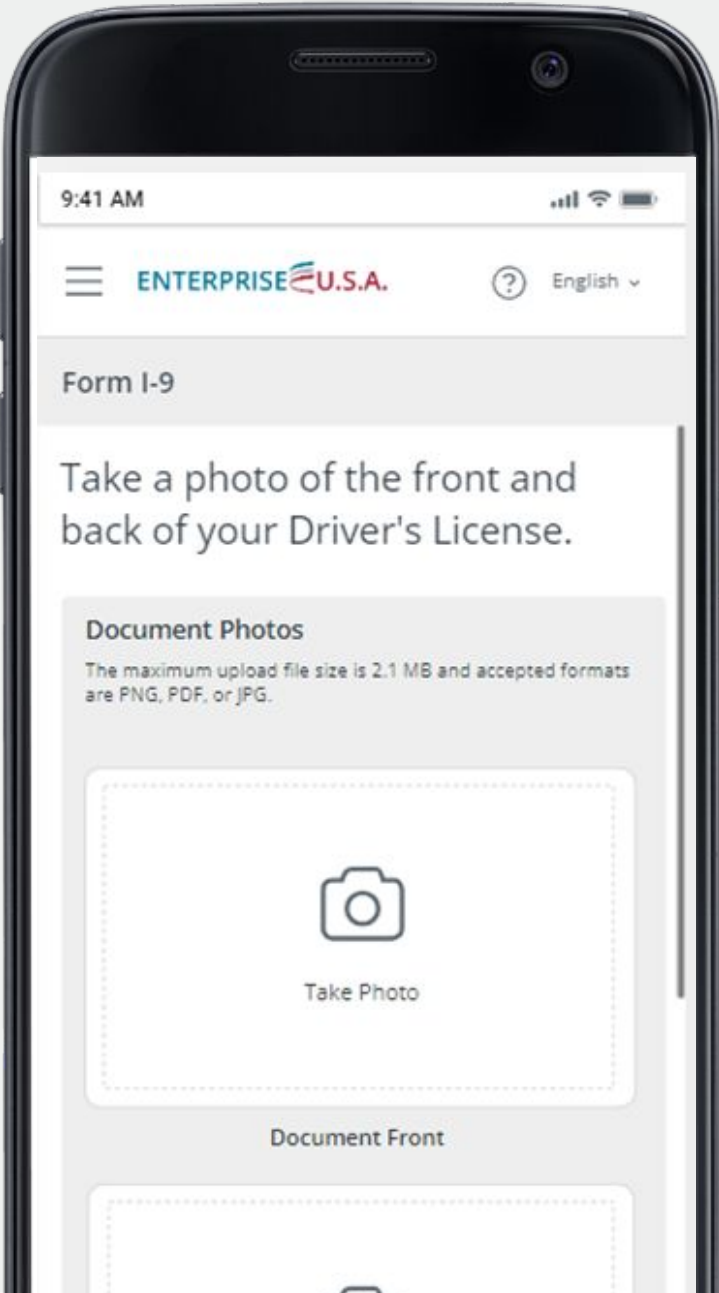
How It Works For Your Employees

Virtual I-9 completion with I-9 Anywhere is as easy as 1,2,3...

1 Complete Section 1 from any device



2 Easily upload verification documents



3 Join video call with virtual completer



Help to Gain Greater Confidence in Your Form I-9s

I-9 Inspect helps you review your Forms I-9 that have been digitally converted to help you detect and prioritize potential issues while simplifying the process of making your corrections and helping you reduce your organization's risk.

I-9 Inspect helps identify possible errors and helps you remediate your information with guided prompts and notifications

Changes are tracked with a detailed audit trail, resulting in form storage in your locations that helps you become more audit-ready



Q&A

Next Steps



Activity ID:
23-Y79VR



1 CONTACT

Want to talk to someone about your I-9s processes? Click on the “Want to Get In Touch” button on your webinar console.



2 CONNECT

Subscribe to Let’s Talk HR for updates:
workforce.equifax.com/insights

