

**ARIZONA STATE PERSONNEL SYSTEM
STATEWIDE POLICIES AND PROCEDURES**

Policy Number: ASPS/HRD-PA3.06	Issued: November 19, 2012
Subject: Employment Eligibility Verification (I-9 Records)	Effective: November 19, 2012
Policy Section: Employment	Revised:
Policy Owner: ADOA Human Resources Division	

This policy does not create a contract for employment between any employee and the State. Nothing in this policy changes the fact that all uncovered employees of the State are at-will employees and serve at the pleasure of the appointing authority.

Scope:

This policy applies to all agencies, boards, offices, authorities, commissions, or other governmental budget units of the State except universities.

Authority:

Immigration Reform and Control Act (IRCA) of 1986, as amended
 Legal Arizona Workers Act, as amended
 A.R.S. § 23-211 et seq.
 R2-5A-306, Hiring Requirements

Definition(s):

“Agency” means a department, board, office, authority, commission, or other governmental budget unit of the state.

“Automated I-9 system” means an electronic version of the I-9 paper form.

“Employee” means, for the purposes of this policy, an individual who is assigned an employee identification number (EIN) for purposes of receiving compensation. This includes temporary appointment employees as well as board or commission members who are eligible to receive compensation for attending board or commission meetings. This does not include board, commission or committee members who are not eligible for compensation and are issued an EIN only for expense reimbursement.

“E-Verify” means the electronic employment verification process operated by the U.S. Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS).

“Hire Date” and *“first day of employment”* have the same meaning and mean the employee’s first day of work upon hire or, if the employee has a break in service, the employee’s first day of work upon rehire.

Policy:

The Immigration Reform and Control Act of 1986 is a federal law that requires employers to document employee identity and employment eligibility using the I-9 form for all employees hired after November 6, 1986.

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The Legal Arizona Workers Act is a state law that requires, after December 31, 2007, employers in Arizona, after hiring an employee, to verify the employment eligibility of the employee through the E-Verify program. All new employees hired or former employees who are re-hired after December 31, 2007 shall have their employment authorization confirmed through E-Verify to maintain their employment.

After a new employee has been offered and accepted a position with the State, but no later than the employee's first day of employment, the employee shall complete Section 1 "Employee Information and Verification" of the I-9 form.

Within three (3) business days of hire, the agency representative shall complete Section 2 "Employer Review and Verification" of the I-9 form by examining evidence of identity and employment eligibility using the original documents provided by the employee.

Agency representatives shall retain a properly completed I-9 form for every current employee hired after November 6, 1986. As required by E-Verify, copies of documents provided by the employee may be required to be electronically maintained. As required by law, agencies shall retain a former employee's I-9 form for three (3) years after the date of hire or one (1) year after the employment is terminated, whichever is later.

Procedures:

Agency representatives shall use the automated I-9 system for all new employees whose effective date of employment begins January 1, 2008 or later.

Agency representatives shall use the paper I-9 process for employees hired prior to availability of the automated I-9 system. Employee I-9 forms created using the paper I-9 process will continue to be maintained (re-verification, disposition, etc.) as they were prior to the availability of the automated I-9 system.

A. Automated I-9 System Procedures

1. Agency Actions

- a. Agency heads shall designate an individual or individuals within the agency who will be responsible for the I-9 process. Agency representatives with responsibility for the I-9 process will be required to complete training on the automated I-9 system prior to performing any automated I-9 actions. Agency representatives can enroll in this training via the YES website.
- b. The agency representative shall provide an offer letter to the new employee that includes instructions for using the automated I-9 system for Section 1 of the I-9 form, advises the employee of the agency's use of E-Verify, and instructs the employee to be prepared to provide acceptable document(s) on the employee's first day of employment. An offer letter template is available on the HR Professional website.
- c. The agency representative shall review and ensure the employee fully and properly completed Section 1.

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- d. An agency representative shall not mandate which form(s) of identification and work eligibility documents an employee presents for verification. However, the State is mandated by state law to participate in E-Verify. E-Verify employers may accept any document or combination of documents on the I-9 form, but if the employee chooses to present a List B and C combination, the List B (identity only) document must have a photograph. The agency representative shall examine the document(s) provided by the employee, ensuring that the document(s) presented are unexpired, appear to be reasonably genuine and related to the employee, and annotate the document information in Section 2 "Employer Review and Verification" on the automated I-9 system. If the employee cannot produce the required documents because they have been lost, stolen, or damaged, a receipt to procure the required document(s) must be presented within three (3) business days of the employee's hire date and the actual document presented within ninety (90) days. Note: A receipt for *application* for the required document(s) does not qualify as an acceptable receipt. An acceptable receipt must be for the replacement of lost, stolen, or damaged document(s). Please refer to the Department of Homeland Security Handbook For Employers – Instructions for Completing Form I-9 (form M-274).
- e. The agency representative shall complete Section 2 "Certification" of the automated I-9 system by inserting the employee's first day of employment in the appropriate blank. The agency representative shall electronically sign using the automated I-9 system.
- f. No copies of an automated I-9 form or work eligibility documents will be made or retained for employees hired after December 31, 2007, except when the E-Verify Photo Match tool is used. When using Photo Match, a copy of the document used is scanned into the automated I-9 system by the agency representative.
- g. The automated I-9 system will automatically perform the E-Verify check. Results of the E-Verify check will be displayed through the automated I-9 system to appropriate agency representative. If a tentative non-confirmation is returned from the E-Verify check, the agency shall print the appropriate notification documents from the automated I-9 system and hand deliver or email them to the employee for action.
- h. The automated I-9 system will automatically track work authorization expiration dates. The automated I-9 system will send work authorization expiration reminder notices to employees with email addresses and the agency representative prior to the work authorization expiration date. This requirement is only for work authorization documents with expiration dates and not for other documents such as driver's licenses or United States Passports. When a work authorization document expires, the employee is no longer eligible to work. The agency representative should run reverification reports from the automated I-9 system on a monthly basis to ensure an employee's work authorization does not expire.

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- i. When an employee who previously presented a receipt to procure a document(s) submits the actual document or when information changes such as name change or new work authorization is granted, upon receipt of new information, the agency representative shall complete the required area(s) of Section 3, "Updating and Reverification" of the automated I-9 system.
- j. If a former employee is rehired:
 - Within three (3) years of the date the employee's automated I-9 was originally completed, a new automated I-9 form is not required. The agency representative shall note the date of rehire in Section 3 "Updating and Reverification" of the automated I-9 system and electronically sign using the automated I-9 system.
 - And the former employee had previously completed a paper I-9 form, the former employee is required to complete a new I-9 utilizing the automated I-9 system.
- k. I-9 forms completed through the automated I-9 system will be automatically destroyed at the completion of the required retention period.

2. Employee Actions

- a. The employee shall complete Section 1 "Employee Information and Verification" of the automated I-9 system. The employee may complete Section 1 any time after the job offer has been accepted. The employee shall complete this section no later than the end of the first day of employment. The following information is required:
 - Name
 - Address
 - Date of birth
 - Social Security Number
 - Check one of the work eligibility boxes:
 - A citizen or national of the United States
 - A lawful permanent resident (alien number to be provided)
 - An alien authorized to work until (expiration date to be provided)
 - Signature
 - Date
- b. On the employee's first day of employment, the employee shall bring original document(s) as listed on the Acceptable Document list to prove identity and right to work. The list of acceptable documents to establish identity and employment eligibility may be found on the automated I-9 system. The employee shall provide an original document from either list A which establishes both identity and employment eligibility OR one original document from list B for identity AND one original document from list C to establish employment eligibility. Since the State participates in the E-Verify program, there is a requirement that any List B document presented must contain a photo of the employee. List C permits the employee to provide a certified copy of a birth certificate issued by a state, county or municipal authority or outlying possession of the United States bearing an official seal.

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- c. It is the employee's responsibility to ensure work authorization does not expire and to present current work authorization documents upon receipt or upon request from the agency representative to prevent possible termination from employment.

3. Correcting an Error

- a. If upon review of the automated I-9 system, the agency notices an error has been made, the error may be corrected using the automated I-9 system.
- b. If the error was made by the employee and is identified prior to completion of Section 2 of the automated I-9, the employee should correct the error.
- c. If the error was made by the agency and is identified prior to completion of Section 2 of the automated I-9, the agency representative should correct the error prior to completing the form.
- d. If the error is identified after Section 2 of the automated I-9 system was completed, the employee or agency representative (depending on who made the error) may correct the specific error only on the automated I-9 system.

4. Transferring I-9

In the event an employee transfers from one state agency to another state agency, the automated I-9 record will automatically be assigned to the gaining agency.

B. Paper I-9 Form Procedures

1. Agency Actions

- a. Employees hired prior to January 1, 2008 will have paper I-9 forms. These forms shall be maintained in a separate file that is not part of the employee's official personnel file.
- b. Section 3 of the I-9 "Updating and Reverification" is used when information changes such as name change or new work authorization. Upon receipt of new information, the agency representative will complete the required area(s) in Section 3 of the I-9 form.
- c. I-9 forms for employees who have separated from state employment will be destroyed at the completion of the required retention period.

2. Employee Actions

- a. It is the employee's responsibility to ensure work authorization does not expire and to present current work authorization documents upon receipt or upon request from the agency representative to prevent possible termination.

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- b. A former employee who had previously completed a paper I-9 form and is rehired after a break in service shall complete a new I-9 utilizing the automated I-9 system.

3. Correcting an Error

- a. If, upon review of the I-9 form, the agency representative notices a date field was inadvertently left blank, the agency shall not back date the missing information.
- b. An error may be corrected by either lining through once using a red ink pen, the correct information annotated in red, initialed and dated by the person making the corrections OR by completing a new I-9 form with the corrected information. The new I-9 should be stapled to the previous I-9 form and filed.
- c. If an audit reveals that an employee's I-9 form is missing, the agency representative will have the employee complete a new I-9 form, attach a memo describing the situation of the missing I-9(s), and that a new I-9 form was completed to meet the legal requirement.

3. Transferring I-9

In the event an employee transfers from one state agency to another state agency, the paper I-9 form should be transferred to the gaining agency within ten (10) business days of the effective date of the employee's transfer.

Related Forms/Links/Templates:

- [Employment Eligibility Verification Form I-9](#)
- [Department of Homeland Security Handbook For Employers – Instructions for Completing Form I-9 \(form M-274\)](#)
- Offer Letter Template

Corresponding Policies/Guidelines:

Not applicable

Contact:

- If you have any questions related to HR Policy, please contact your agency's Human Resources Office/representative.
- An agency needing assistance with the I-9 process may submit a request via email to: I9Help@azdoa.gov

Policy History (supersedes):

Not applicable