



I-9 Case Study

Brief background

Employment records for every individual that is hired by an employer in the United States must be documented in a form named I-9. The I-9 form, issued by the U.S. Citizenship and Immigration Services (USCIS), is a crucial document that helps companies verify the identity and employment authorization of individuals hired for employment in the United States. Ensuring that I-9 files are accurately and up to date is vital for both legal compliance and maintaining a capable workforce. However, many organizations face challenges in maintaining I-9 records that meet the regulatory standards set forth by the government.

Major challenges



Outdated Files and Compliance Issues

One common challenge companies face is keeping their I-9 files up to date. As employees change their immigration status or receive new authorizations or renewing their passports/driving licences, it's essential that their I-9 records reflect these changes accurately. Failure to update these forms can lead to compliance issues, potentially resulting in penalties and legal consequences for the company.



Lack of Proper Relation between Sections

Another significant issue arises when there is a lack of proper relation between sections 1, 2, and 3 of the I-9 form. Section 1 must be completed by the employee, indicating their ongoing work authorization. Section 2, completed by the employer, must correlate with the information provided in Section 1. Section 3 is used for reverification and rehires, and it should reflect any updates to the employee's work authorization status. Companies struggle to maintain this seamless flow of information between the sections.



3-Day Rule for Employee and Employer Signatures

The 3-day rule, requiring employees to complete Section 1 and employers to complete the Section 2 within three business days of the employee signing the section 1, is a mandatory requirement. Failure to meet this deadline can lead to compliance issues. Companies often find it challenging to ensure that both parties adhere to this rule consistently.



Proper Document Selection from Lists A, B, and C

Selecting the correct documents from Lists A, B, and C is crucial for compliance with I-9 regulations. List A includes documents that establish both identity and work authorization, while List B and List C provide options for establishing either identity or work authorization. Companies sometimes face difficulties in accurately identifying and recording the relevant documents, which can lead to compliance issues.



Covid-19 pandemic induced issues

Due to covid-19 pandemic, all the employees had to working remotely. Employer's staff too had to work from home. To contain the Covid-19 pandemic, USCIS relaxed i-9 norms. As a result of this covid-19 flexibilities coupled with unavailability of staff, most of the employee's i-9 records were not maintained properly as they had no system in place.



Additional Information Box and Supporting Documents

In many cases, employers need to include additional information in the designated box on the I-9 form. This information may pertain to other filed petitions, new I-94 forms, or updated passports. Ensuring that this information is accurately provided and properly associated with the I-9 form can be a challenge for organizations.

What's needed?

Maintaining accurate and up to date I-9 documentation is a critical aspect of legal compliance for companies employing foreign nationals in the United States. Organizations face various challenges, including outdated files, issues with section relations, adherence to the 3-day rule, proper document selection, and recording additional information. To address these challenges, companies should establish robust internal processes/systems and consider utilizing digital solutions that facilitate accurate record-keeping and compliance with I-9 regulations. By doing so, organizations can comply with all laws to mitigate potential legal risks and maintain a compliant/capable workforce.

About the Client - ITServe member company



ITServe member company is an information technology services and solutions company, based out of Hartford, CT. This company is in existence since 15+ years, providing Information Technology (IT) strategy planning and implementation at every stage of the software development lifecycle. It is a top-tier business consulting and professional services firm, built on values a commitment to excellence, trust and individual leadership. The company's deep industry expertise, cost-effective delivery methodology, highly skilled engineers, and professionals, focus on quality standards, and flexibility in meeting your specific business requirements effectively eliminate risk and provide the foundation for shared success.

Client's Business Problem

ITServe member company is in the business over 15+ years with predominant workforce reliant on immigrants in STEM field. Over the period of a decade, there were many changes in the immigration details of the workforce which were not documented properly in majority cases and not updated as they changed. As a result of these gaps, I-9 records of all the employees were not accurate. There was a need to audit these I-9 records for all the employees (present employee and ex-employees), verify the authenticity of these documents, identify the gaps/issues in the existing i-9 records, update all the records to comply as per the guidelines of USCIS.

Scope of Imagility Services



The ITServe member company trusted Imagility to audit all their employee I-9 records, identify the gaps/issues, provide the solution, and correct all the I-9 records to comply with USCIS guidelines. There are over 150+ existing employees and another 150+ past employees.

Imagility Audit

An experienced team of Imagility's immigration experts visited the company's office, met their management team and interacted with the HR Operations team. Imagility's team received the available I-9 records.



Imagility's team scoped the project in two phases based on the severity of the problem and time to address these issues -

- 1 Audit the records of present employees and
- 2 Audit the records of past employees

Imagility's team started with phase 1, went through all the i-9 records of the existing employees, meticulously audited every document of an employee (passport, SSN, work authorizations including i797/EAD/CPT, i-94, i-20, Driving licenses and every other document that falls into either list A, list B and list C)

Generally, these kinds of audits take around 2 weeks but Imagility's expert team accomplished this in just 1 week working overnights as Imagility's team recognizes the importance of completing this process accurately in the least possible time.

Below are the major issues the team found out:



Identified various errors

Through meticulous auditing process, Imagility's team uncovered numerous errors in the existing I-9 records. Some of these errors are incomplete information, inaccurate details, discrepancies between different sections of the form. Identifying these errors was a crucial step in complying with USCIS guidelines.



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Verification of Remote Employees

■ Using Remote Verifiers

Employer can engage third-party evaluators, who specialize in remote verification services, to authenticate the identity and employment eligibility of remote employees. Third-party verifiers are specialized agencies or companies that offer services for remote I-9 verification. They employ a combination of advanced technology and trained professionals to authenticate documents and ensure compliance with legal requirements.



■ Authorized representatives

In certain cases, when employees are unable to meet in person with a representative of the company or a notary, they may seek assistance from friends or family members who can act as authorized representatives for I-9 verification.



■ E-Verification

E-Verify is a web-based system that allows employers to verify the eligibility of their employees to work in the United States. E-Verification can be conducted through video, providing an efficient and compliant solution for employers. It allows employers to electronically verify the eligibility of their employees to work in the United States. The representative visually inspects the documents and records relevant information, just as they would during an in-person verification.



■ Maintaining I-9 records



For all the ex-employees, I-9 records must be maintained for up to 1 year after their termination/exit date. If employee worked for less than two years, retain their I-9 form for three years, after the date entered in the first day of employment field. If the employee worked for more than two years, retain their form I-9 for one year after the exit date/termination. Imagility provided various options to rectify these I-9 records and implemented the best solution to be compliant with USCIS guidelines.

Impact of Imagility's Compliance Solution

Client was extremely worried with the situation of I-9 records. Imagility being the leader in the immigration and compliance space, ITServe member company entrusted us with audit and compliance of their I-9 records. Within the least possible time, Imagility's team went through all the records, audited, and rectified all the I-9 records. Our client was delighted and extremely pleased with our efforts, that included not just rectifying, but also securing all their employee data, which is highly confidential.



| S.No | Before I-9 Compliance Services | After I-9 Compliance Services |
|------|---|--|
| 1 | Client had no process/system in place to maintain and adhere to I-9 compliance. | Established a clear process/system to create, update, maintain I-9 records for every scenario. |
| 2 | There were lot of inaccuracies, inconsistencies in almost all the existing I-9 records. | Rectified all inaccuracies, inconsistencies in all the existing I-9 records. |
| 3 | Some of the employees I-9 records were not initiated during covid-19. | Established a clear process/system to create, update, maintain I-9 records for every scenario. |
| 4 | Client was not sure of the process required to create, update, and maintain I-9 records for employees hired during covid-19 flexibilities period. | Provided solution to adhere to covid-19 flexibilities I-9 compliance through alternate mechanism by video interview and capturing the details in the additional information section. |



Notes

On 21st July 2023, DHS announced the end of temporary COVID-19 flexibilities as of July 31 and provided DHS the authority to authorize optional alternatives for employers to examine Form I-9 documentation. Employers enrolled in E-Verify have an option to remotely examine their employees' identity and employment authorization documents under alternative procedure, instead of examining documents in-person.

On Aug. 1, 2023, USCIS published a revised version of Form I-9, allowing E-verified employers with a checkbox employer to indicate they remotely examined identity and employment authorization documents. The new I-9 form can be used from Aug. 1, 2023, while the old I-9 form expires by Oct. 31, 2023, making new i-9 form mandatory from Nov. 1, 2023.

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