



Spring 2007

## Common Errors in Completing the I-9 Form

With recent enforcement activity by Immigration and Customs Enforcement (ICE) employers are reminded that I-9 Forms must be properly completed to avoid penalties for paperwork violations. The following are common errors in completing these forms.

### Overdocumenting

- This is the most common error because an employee will often provide both a resident alien card and a social security card. Even if an employee gives you more documentation than necessary for completion of the I-9 you, nonetheless, can only list either one document from List A or one document from List B and one from List C.

### Making corrections "Incorrectly"

- DO NOT USE "WHITE-OUT". If changes need to be made the incorrect information should be crossed out and the appropriate information should be written in. Any changes should be made by the individual who originally completed that section of the form.
- If changes are made, either additions or corrections, these should be initialed and dated by the person making the correction. If a change is necessary in Section 1, the employee should make the change or, if he/she needs assistance, the Preparer/Translator should make the change, but the employee should also initial and date it to show that he/she was aware that a change had been made.
- If there are substantial changes to be made to the I-9 or there is any change that requires reviewing documents again, a new I-9 form should be completed and the previous I-9 should be attached to it.

### Incomplete form

- It is important to make sure that all required information is stated on the form. Items often "missed" include failing to: check a box; write in the A number (if applicable); write in the expiration date of a temporary work authorization (if applicable); include all information on a document [name, issuing authority, number, and expiration date (if any)] and fill in the date of hire in Section 2.

### Updating an expired Permanent Resident Alien Card

- Although a permanent resident alien card has an expiration date, the employee is not required to provide a document with a new expiration date because the authorization to work in the U.S. does not expire. Therefore, updating the I-9 is not necessary. However, this document must not be expired at the time of hire.

### Not explaining Section 1 to an Employee who needs assistance

- Even though the Company representative may be completing Section 1 on behalf of the employee, the employee is indicating by his/her signature that he/she is "aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form." Therefore, it is incumbent on the individual assisting in the completion of this section to make sure that the employee understands what is stated on the form.

### Company representative signing form who has not seen the documents

- The form is to be completed and certified/signed by the Company representative who has reviewed the **original** documents. It is unacceptable to have one person review the documents and another sign the form. The Company representative's signature indicates, under penalty of perjury, that he/she has examined the documents.

### Including the expiration date of a permanent resident alien card in Section 1

- Even though a permanent resident card has an expiration date, and it must be included if provided as a work authorization document under List A in Section 2, the only expiration date that should be included in Section 1 is if the temporary work authorization box ("alien authorized to work until") is checked. If the employee checks the lawful permanent resident alien box the A number must be included, but the expiration date should not be written in.

### Extraneous markings on the I-9

- The I-9 may **only** be used for its intended purpose – to certify that the employee is authorized to work in the United States. You may not use this document for any other purpose. Therefore, do not include any other information on the document (employee number, verification of background check or drug testing, etc.)

For assistance in reviewing your I-9s for compliance, contact Jeanne Flaherty at Employer's Legal Advisor, Inc.



*Jeanne Flaherty is an attorney and President of Employer's Legal Advisor, Inc., which represents and advises employers on all employment matters. The firm specializes in conducting employment practices compliance reviews and advising employers on day-to-day legal issues in the workplace.*