

— LEGAL —

What Documentation Is Required To Work In The U.S.?

Today's global economy means U.S. businesses are welcoming employees from all over the world, but increased enforcement by U.S. Immigration and Customs Enforcement (ICE) and the U.S. Department of Labor (DOL) means employers need to be especially vigilant about their foreign workers' ability to legally work in the United States.

That puts the onus on employers to verify the identities and employment eligibility of their employees. It's not enough to simply ask the prospective employee questions about his or her immigration status.

The Immigration Reform and Control Act of 1986 requires employees to provide proof that they are legally authorized to work in the U.S.. Employers are also required to document employee work authorization by completing USCIS Form I-9. The Form I-9 must be completed for all employees and where an employee has an employment document that has an expiration date, the employer is required to re-verify employment eligibility on or before the expiration date of the document. The Form I-9 instructions provide a list of acceptable documentation that employees may use to satisfy the I-9 requirements.

It should be noted that there are numerous documents that may be used to establish employment eligibility. Employers should be familiar with these documents and how they impact the employer's ongoing requirement to maintain I-9 records. Employers should not request additional documents other than what is necessary to meet the basic I-9 requirements lest they face claims of national origin discrimination. Hiring workers who aren't legally able to work in the U.S. can also have serious repercussions for an employer. Employers may face civil or criminal fines and penalties if they violate immigration hiring requirements in any way.

Navigating immigration law is a complex undertaking. We always recommend that our clients have immigration hiring policies in place and evaluate them periodically to ensure they offer full compliance with current immigration laws. A strong, uniform policy creates consistent corporate hiring practices and helps protect the employer from immigration-related hiring issues. Employers should always consult with a qualified immigration attorney when implementing I-9 verification and record retention policies.



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