**I-9 Form Self Audits**

Before conducting an internal Form I-9 audit, employers should consider the following important steps.

1. **Determine the purpose and scope of the audit:**

An audit may be conducted either in response to a government directive or for the purpose of initiating a “best practice” within the organization regarding the proper completion and handling of the Form I-9.

1. **Review your communication plan:**

When you find discrepancies on the Form I-9, affected employees should be provided with details regarding the purpose and scope of the audit, ideally in writing, in addition to setting their expectations on how deficiencies and discrepancies will be handled and communicated.

Set up two-way communication by providing a path for employees to ask questions they may have as to how the audit will affect them. Ensure consistent standards on how information is communicated and how to best approach any employee for whom a discrepancy is found during the audit. This may be a plan to review with the highest levels of the company. For example, what if the CFO’s I-9 needs to be corrected; will the executive team be equally onboard with that request as they would be for an hourly employee?

When discrepancies require a private and direct conversation with an employee, provide the employee with their Form I-9, corresponding Form I-9 documents and any other documentation to aid in illustrating the alleged discrepancy. An interpreter may be used, if necessary, to ensure clear instructions and to answer any questions surrounding the issue. It is incumbent upon the employee to resolve any discovered issues to the employer’s satisfaction. It is incumbent upon the employer to provide clear direction and assistance to the employee in order to aid them in resolving the issue quickly.

1. **Use what you have learned to prepare for the future:**

Prevention and preparation are two of the best reasons for conducting an internal audit as a “best practice.” In doing so, organizations can be better prepared in the event of a government audit. Immigration and Customs Enforcement (ICE) conducts audits and assesses fines. Form I-9 paperwork violations can be present even if all employees have the required work authorization. The amount of Form I-9 violations, especially if uncorrected, can also reduce a company’s ability to successfully argue a specific case or to negotiate a lower overall fine.

**Follow these steps to conduct a proper Form I-9 internal audit:**

1. Create a tracking spreadsheet of all active and terminated employees that were hired since Nov 7, 1986 (the date I-9s became required). Include employee name, SSN, hire date, and termination date (if applicable).
2. Compare your list with the actual Form I-9 on file for each employee listed.
3. If an I-9 for a terminated employee is missing, you may not recreate one. Instead, create a memorandum explaining the situation and place it in the file where the I-9 should be.
4. If an I-9 for an active employee is missing, ask the employee to complete a new I-9 form using the current version of the form. The employee must complete Section 1, sign and date (with current date). The employer, or authorized agent, must complete Section 2 (insert original start date) and sign and date (with current date). Attach a memo to the form explaining that “due to a self-audit, it was discovered there was no I-9 on file for this employee; therefore, the form was completed at the time of the audit.”
5. Review all existing I-9s for both correctness and completeness. Note any deficiencies or discrepancies requiring follow up within the tracking spreadsheet. Things to look for:
   1. Incomplete or missing document information.
   2. Information included in the wrong section.
   3. Appropriate signatures in Sections 1 and 2.
   4. Citizenship/immigration status box checked.
      1. If so, is the correct box checked?
   5. Documents listed in the correct columns.
   6. Appropriate number of documents listed.
   7. Was the correct version of the form used?
   8. Make any allowable corrections. The employee must make corrections in Section 1. If the employee is no longer employed with you, attach a memo to the form explaining the employee is no longer employed, therefore able to make the correction. The employer makes corrections in Section 2. Strike through errors leaving the previous information legible. All corrections should be initialed, dated, and include the words “Per Self-Audit.”
6. Review your retention process as you go.
   1. For terminated employees, check the hire date and termination date to determine whether the I-9 should be retained. At the later of one year after termination or three years after hire, a terminated employee’s I-9 may be purged. Since purging reduces paperwork and the number of potential forms to be audited, put in place a purge process moving forward.

Conducting routine internal audits of I-9 forms, including a review of your processes and procedures regarding completion of the Form I-9, as well as E-Verify, will help you prepare for a government directed audit and help curb unexpected violations. I-9 violations range from hundreds to thousands of dollars *per* error. As part of the onboarding process, ensure you are completing document inspections correctly. If you are eligible to complete document inspections virtually utilizing the alternative procedure authorized by DHS, confirm those steps have been taken correctly. It is also considered a best practice to review an employee’s I-9 at termination or during their exit interview.

Written by a Catapult Advisor.