

## Do I-9 Forms Require Notarization?

Many notaries across the nation receive requests from an employer to notarize or verify **Employment Eligibility Verification (I-9)** forms. The completion of an I-9 Form for each employee is mandated for every employer or agricultural recruiter/referrer-for-a-fee hirer. (An agricultural referrer is any farm labor contractor or agricultural employer or association.) All such employers and recruiters are subject to periodic ICE (Immigration and Customs Enforcement) inspections to assure that accurately completed I-9 forms are on file for every employee; violators are subject to fines and administrative sanctions. Thus the proper completion and execution of the I-9 form is of extreme importance.

### What is the I-9 Form?

The I-9 Form is a multi-page document generated by the office of the **United States Citizenship and Immigration Services for the Department of Homeland Security** used for the purpose of verifying the employment eligibility of every new employee who accepts a job in the United States as of November 6th, 1986. This form must be completed by the employer as of the first day of employment for new employees. This is without exception; it includes even individuals working in a temporary capacity for only a few days. It also includes non-citizen residents and foreign visitors with a temporary work visa. In Section 1 of the I-9, employees are asked to fill out the top portion of the I-9 form which contains demographical information and asks them to state their US residency status, whether citizen, non-citizen, lawful permanent resident, or alien authorized to work. In Section 2 of the I-9, employers are then asked to obtain proof of identity and proof of authorization to work from the employee.

### Does the I-9 Form Require Notarization?

When perusing the I-9 form, the notary will see that the I-9 form does not contain a notarial certificate and therefore does not require notarization. So what is causing this confusion among notaries? The wording on the [I-9 Form](#) and the identification requirements confuses some individuals into thinking that the form must be notarized. Employees are asked to "*attest under penalty of perjury...*" that their statements and documentation are true. Rather than requiring the use of a third party, such as a notary, the form itself indicates to the employee that Federal law provides for fines and imprisonment for false statements. Additionally, the employer must examine identification documents and work authorization documents from the employee to determine their eligibility to work in the United States. There are various documents in three separate lists from which the employee can choose to submit to verify identity and employment eligibility.

The employer is not permitted to determine or decide which documents the employee must produce as long as the documentation is provided from the lists in the I-9 form's *Lists of Acceptable Documents*. Employers may feel inadequate or uncomfortable examining these documents and often will request the services of the notary, whom the employer feels is much more qualified to scrutinize identification documents such as passports, military ID cards, and alien green cards. Section 2 of Form I-9, which is the part to be completed by the employer, may also be filled out and completed by the *employer's authorized representative*. In this case, a notary may be called upon to act in such a capacity. He may be called to a movie set to 'notarize' all the I-9's for a group of "actor extras"; or he may be called to a science or technology lab to handle the execution of an I-9 for a physicist hired to work on a top secret formula.

### How Should a Notary Handle I-9 Forms Requests?

While the United States Citizenship and Immigration Services Office permits individuals assigned by the employer to fill out this identification/work eligibility portion of the I-9, some states, for example Texas, prohibit the notary from completing the I-9 on behalf of the employer. **It is incumbent upon you as a notary to determine beforehand whether or not your state permits this type of action. If your state disallows notaries to fill out the form, you as the notary must decline to participate.** Consult the Secretary of State's office in your particular jurisdiction or the office of the

individual responsible for notaries in your state. Since this type of documentation does not call for "notarization" in the classical sense, there can be no penalty for declining or refusing. A notary has the option to decline to serve in this capacity if he feels uncomfortable or is unable to verify if his governing body prohibits notaries from performing such an action. If your state permits you, as the notary, to fill out the I-9 form, you should follow the instructions carefully and examine the ID and employment eligibility documents just as carefully as you would for any notarization. Making copies of the ID documents is optional; you should look to the employer for direction in this area. If photocopies of the ID are made, they will be kept together with the I-9 for the duration of employment.

**Most important: Since the I-9 form does not require notarization, you must never use your notary stamp and seal on the I-9 form under any circumstance.** The I-9 form is not submitted to any office. It is kept on file with the employer for three years after its initial completion or for one year after employment terminates, whichever is longer. This form must be produced if inspectors or investigators from DHS visit the place of employment and ask to see it.

For further information, contact the United States Office of Citizenship and Immigration Services @ <http://www.uscis.gov/i-9-central> or the Department of Homeland Security @ <http://www.dhs.gov/>.