

Form I-9:

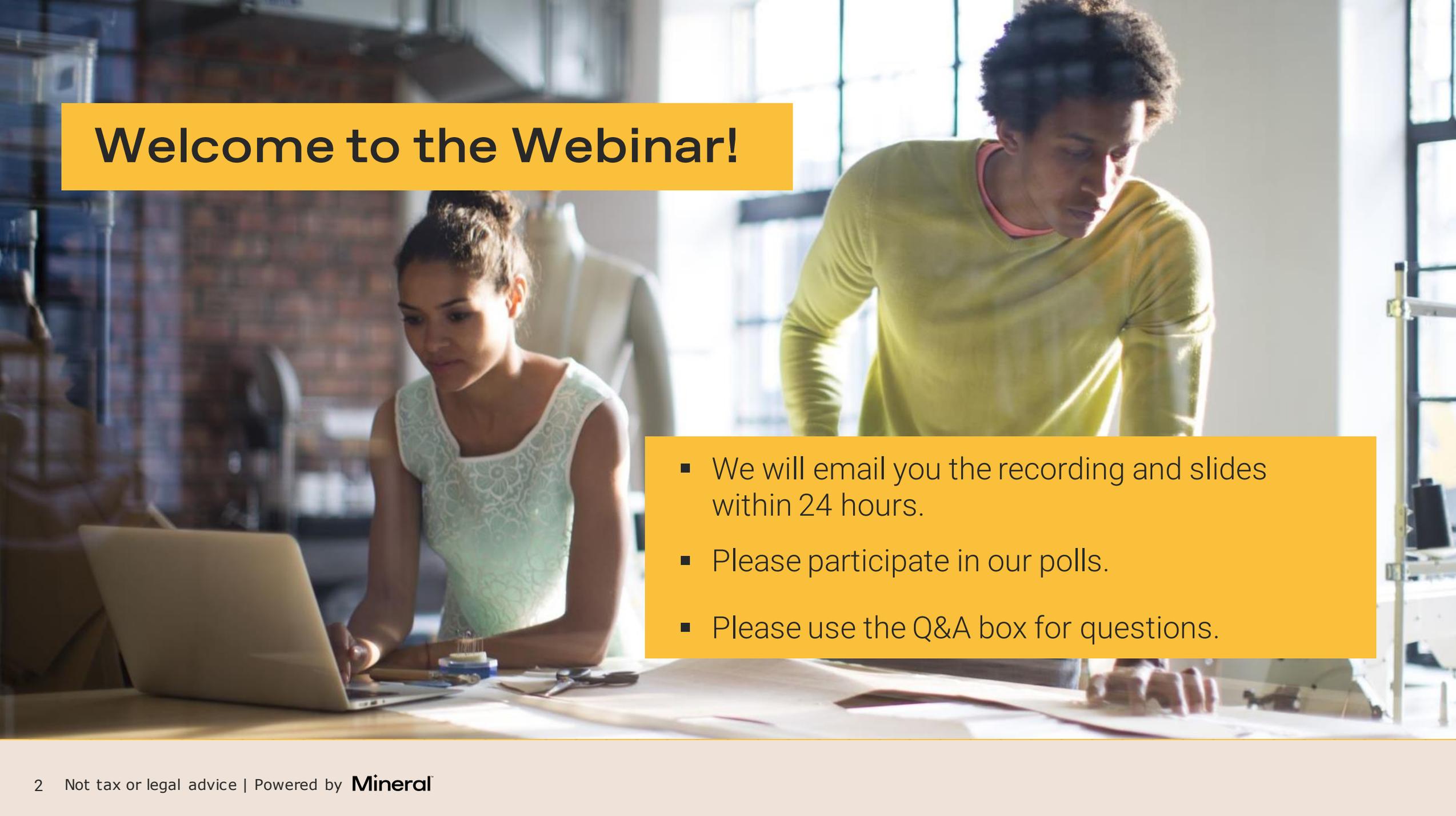
Keys to Compliance

Presented by Monica S., SPHR, SHRM-CP

April 21, 2022

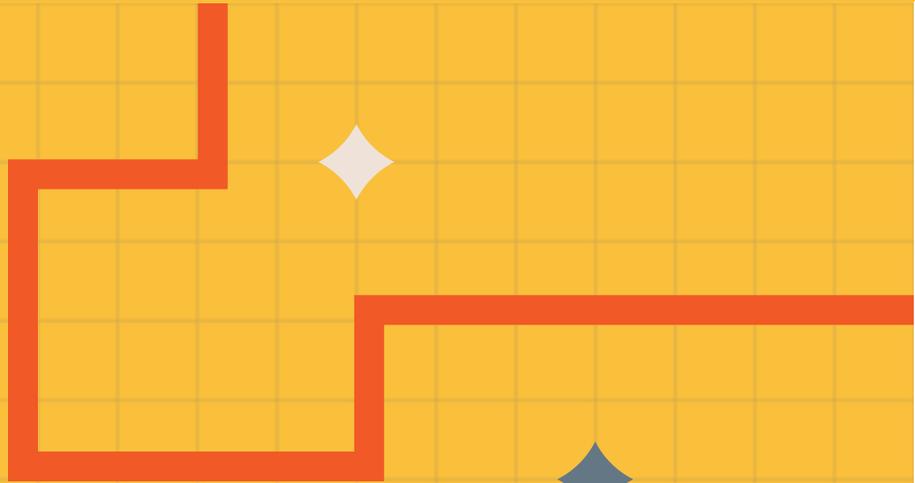
Not tax or legal advice | Powered by **Mineral**

Welcome to the Webinar!



- We will email you the recording and slides within 24 hours.
- Please participate in our polls.
- Please use the Q&A box for questions.

Agenda



- Filing and Retention
- The Form I-9 In-Depth
- Acceptable Documents
- Penalties and Other Considerations
- E-Verify
- Audits

Filing and Retention



Form I-9 File

- Keep current employee and terminated employee files separately
- Alphabetized in a 3-ring binder



Form I-9 Retention

- For as long as the employee works for you and the later of the following: 3 years after the hire date, or 1 year after termination
- Easy math:

Employee's Start Date	+	3 years	=	Date A
Employee's Termination Date	+	1 year	=	Date B

Store their form I-9 until the later of the two dates.

Form I-9 Destruction



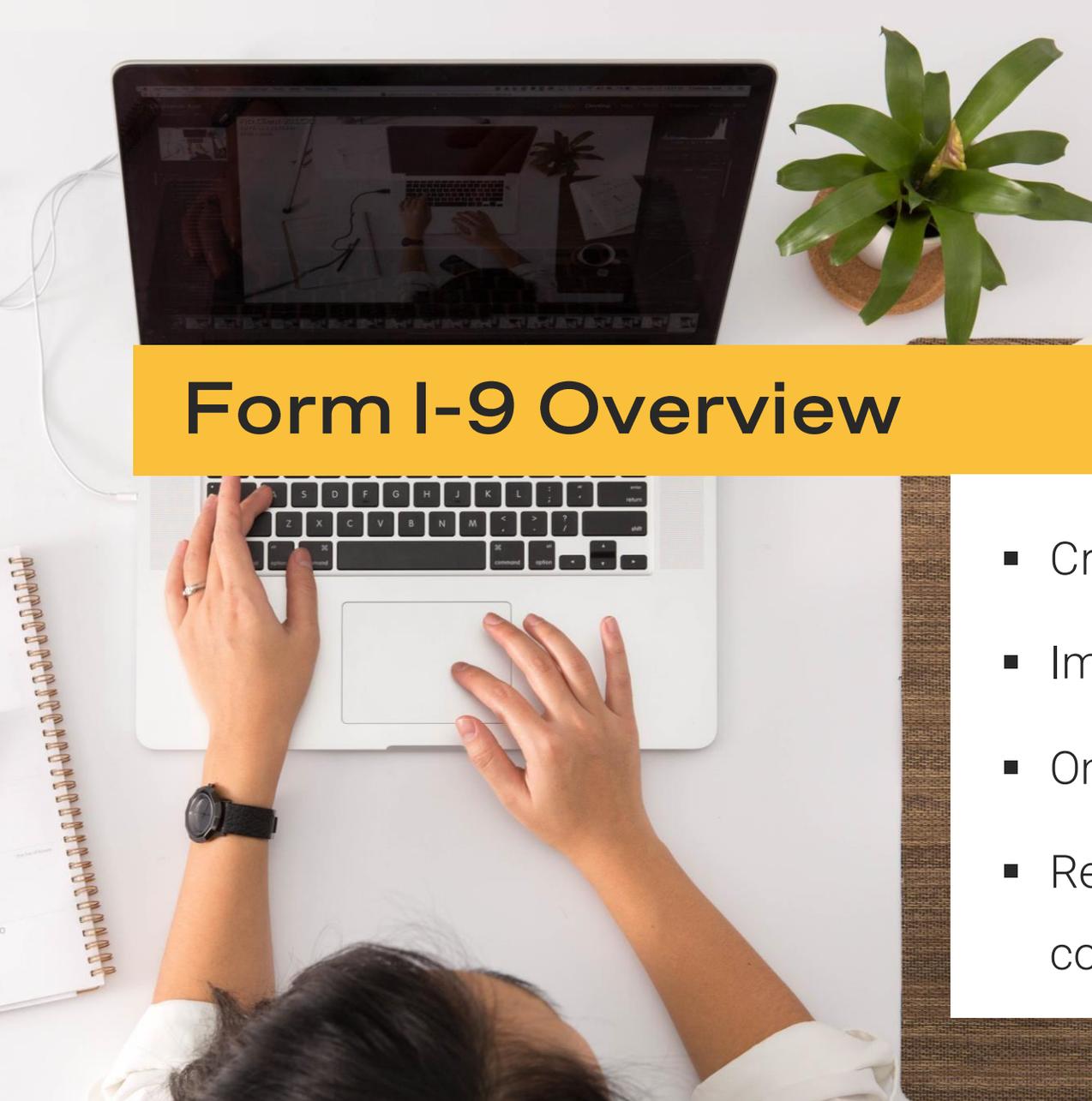
- Destroy once the retention period expires
- Utilize a secure method
- Document which I-9s have been destroyed
- Do not destroy if undergoing an audit

Form I-9



Form I-9 File

- The purpose
- Current edition date “10/21/19” at the bottom
- Prior edition notes “07/17/2017” at the bottom may have been used through 4/30/2020



Form I-9 Overview

- Creates a “smart” form
- Improves form-filling functionality and accuracy
- On-screen instructions
- Retains requirement to print and store completed paper versions

Question:

What if we've used the wrong version of the I-9 for employees hired on or after May 1, 2020?

Answer:

You have two options:

1. Staple the outdated, but completed I-9 to the current version; sign and date the current version and attached a memo noting why the current blank version is attached (e.g., wrong edition was used at time of hire); or
2. Draft an explanation and attach it to the outdated completed Form I-9 explaining that the wrong form was filled out correctly and in good faith.

FAQ



Who Completes Form I-9

- Employer or employer representative
- Section 2 must be completed by the individual that reviewed the IDs
- Notary public acting as an employer representative
 - Discuss this with a notary ahead of time, as some cannot complete section 2
 - No notary is required



When is a Form I-9 *NOT* Required?

- Non-Employees such as volunteers, unpaid interns, and independent contractors
- Employees:
 - Hired before 11/6/1986
 - Hired for casual domestic work in a private home
 - Providing labor to you who are employed by a contractor providing contract services (e.g., employee leasing or temporary agencies);
 - Not physically working on U.S. soil



Section 1:

Employee's Responsibility

Instructions Start Over Print



Employment Eligibility Verification
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No. 1615-0047
Expires 10/31/2022

▶ START HERE: Read instructions carefully before completing this form. The instructions must be available, either in paper or electronically, during completion of this form. Employers are liable for errors in the completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers **CANNOT** specify which document(s) an employee may present to establish employment authorization and identity. The refusal to hire or continue to employ an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Attestation *(Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)*

Last Name (Family Name) ?	First Name (Given Name) ?	Middle Initial ?	Other Last Names Used (if any) ?	
Address (Street Number and Name) ?	Apt. Number ?	City or Town ?	State ? ▼	ZIP Code ?
Date of Birth (mm/dd/yyyy) ?	U.S. Social Security Number ?	Employee's E-mail Address ?	Employee's Telephone Number ?	

I am 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.

Section 1:

Employee's Responsibility (cont.)

I am 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.

I attest, under penalty of perjury, that I am (check one of the following boxes):

<input type="checkbox"/> 1. A citizen of the United States ?
<input type="checkbox"/> 2. A noncitizen national of the United States (See instructions) ?
<input type="checkbox"/> 3. A lawful permanent resident ? (Alien Registration Number/USCIS Number): ? _____
<input type="checkbox"/> 4. An alien authorized to work ? until (expiration date, if applicable, mm/dd/yyyy): ? _____ Some aliens may write "N/A" in the expiration date field. (See instructions)

Aliens authorized to work must provide only one of the following document numbers to complete Form I-9:
An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.

1. Alien Registration Number/USCIS Number: ? _____ OR 2. Form I-94 Admission Number: ? _____ OR 3. Foreign Passport Number: ? _____ Country of Issuance: ? _____	QR Code - Section 1 Do Not Write in This Space
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Signature of Employee ?	Today's Date (mm/dd/yyyy) ?
---	---

Preparer and/or Translator Certification (check one): [?](#)

I did not use a preparer or translator. A preparer(s) and/or translator(s) assisted the employee in completing Section 1.
(Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)

I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.

Signature of Preparer or Translator ?	Today's Date (mm/dd/yyyy) ?		
Last Name (Family Name) ?	First Name (Given Name) ?		
Address (Street Number and Name) ?	City or Town ?	State ?	ZIP Code ?

[Click to Finish](#)

 **Employer Completes Next Page** 



Poll Question

Who is responsible for completing Section 2 of the I-9 at your company?

Section 2, Part I:

Employer's Responsibility

Document Title ?

- N/A
- U.S. Passport
- U.S. Passport Card
-
- Perm. Resident Card (Form I-551)
- Alien Reg. Receipt Card (Form I-551)
- Foreign Passport with Temp. I-551 Stamp
- Foreign Passport with Temp. I-551 MRIV
- Employment Auth. Document (Form I-766)



Instructions Start Over Print

 **Employment Eligibility Verification**
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No. 1615-0047
Expires 10/31/2022

Section 2. Employer or Authorized Representative Review and Verification
(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents.")

Employee Info from Section 1 ? Last Name (Family Name) ? First Name (Given Name) ? M.I. ? Citizenship/Immigration Status ?

List A	OR	List B	AND	List C
Identity and Employment Authorization		Identity		Employment Authorization
Document Title ?		Document Title ?		Document Title ?
Issuing Authority ?		Issuing Authority ?		Issuing Authority ?
Document Number ?		Document Number ?		Document Number ?
Expiration Date (if any) (mm/dd/yyyy) ?		Expiration Date (if any) (mm/dd/yyyy) ?		Expiration Date (if any) (mm/dd/yyyy) ?
Document Title ?		Additional Information ?		QR Code - Sections 2 & 3 Do Not Write In This Space
Issuing Authority ?				
Document Number ?				
Expiration Date (if any) (mm/dd/yyyy) ?				
Document Title ?				
Issuing Authority ?				
Document Number ?				
Expiration Date (if any) (mm/dd/yyyy) ?				

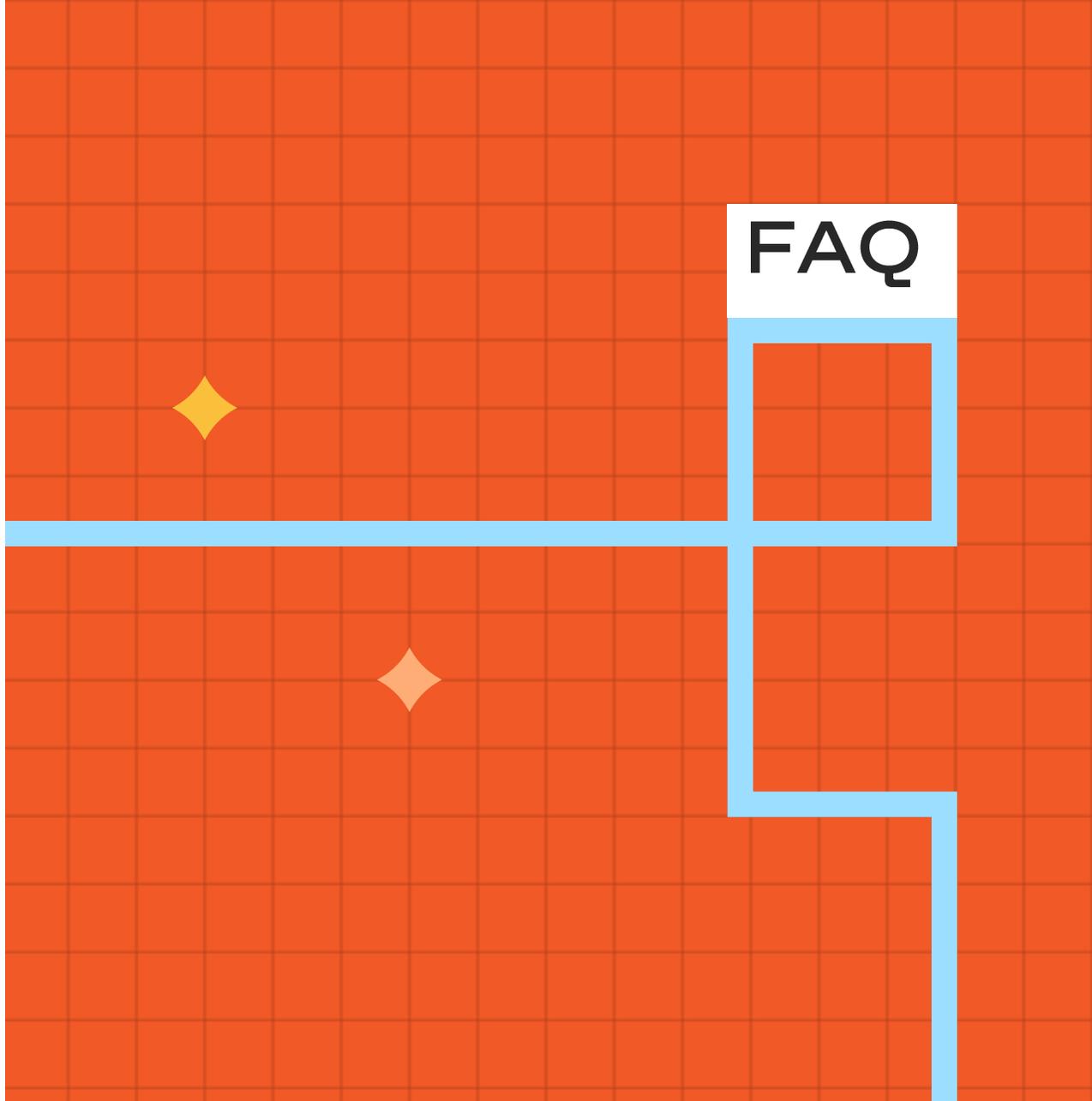
Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee.

Question:

If we photocopy documents and send them to HR with the I-9, can the HR person at our company fill in Section 2?

Answer:

No, the same company representative that reviews the employee's documents must fully complete Section 2, even if photocopies are made.

A graphic on the right side of the slide. It features a white box with the text 'FAQ' in black, bold, sans-serif font. Below the box is a light blue outline of a square, which is part of a larger light blue shape that resembles a stylized 'F' or a step-like structure. The background of the entire slide is a solid orange color with a faint grid pattern. There are two yellow diamond-shaped sparkles: one in the upper left quadrant and one in the lower right quadrant.

FAQ

Section 2 – COVID-19 Flexibility

Expired List B Documents

- Expired List B document flexibility ends April 30, 2022
- Employers must examine non-expired List A or List B document by July 31, 2022
- In the *Additional Information* field:
 - Enter the document title, issuing authority, document number, and expiration date
 - Initial and date the change

Employment Eligibility Verification
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS Form I-9
OMB No. 1615-0047
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Section 2. Employer or Authorized Representative Review and Verification
(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents.")

Employee Info from Section 1	Last Name (Family Name)	First Name (Given Name)	M.I.	Citizenship/Immigration Status
	Washington	Martha	N/A	1

List A Identity and Employment Authorization	OR	List B Identity	AND	List C Employment Authorization
Document Title N/A		Document Title Government ID card		Document Title Social Security card (unrestricted)
Issuing Authority N/A		Issuing Authority USCIS		Issuing Authority Social Security Administration
Document Number N/A		Document Number 123456789		Document Number 123456789
Expiration Date (if any) (mm/dd/yyyy) N/A		Expiration Date (if any) (mm/dd/yyyy) 03/05/2020		Expiration Date (if any) (mm/dd/yyyy) N/A

Document Title	Issuing Authority	Document Number	Expiration Date (if any) (mm/dd/yyyy)
N/A	N/A	N/A	N/A

Document Title	Issuing Authority	Document Number	Expiration Date (if any) (mm/dd/yyyy)
N/A	N/A	N/A	N/A

Additional Information

COVID-19

USCIS Government ID Card
Document Number 987654321
Exp. 06/15/2025

NI 10/01/2020

QR Code - Section 2
Do Not Write In This Space

Section 2 – COVID-19 Flexibility

Remote Inspection of Documents

- Remote inspection flexibility scheduled (and likely) to end April 30, 2022
- Perform physical inspection of original documents
- In the *Additional Information* field:
 - Indicate the date of physical inspection
 - Include full name and title
- USCIS hasn't said how long employers will have to do in-person inspections

 **Employment Eligibility Verification**
Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No. 1615-0047
Expires 10/31/2022

Section 2. Employer or Authorized Representative Review and Verification
(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents.")

Employee Info from Section 1	Last Name (Family Name)	First Name (Given Name)	M.I.	Citizenship/Immigration Status
	Washington	George	N/A	2

List A Identity and Employment Authorization	OR	List B Identity	AND	List C Employment Authorization
Document Title N/A		Document Title Driver's license issued by state/territory		Document Title Social Security card (unrestricted)
Issuing Authority N/A		Issuing Authority Virginia		Issuing Authority Social Security Administration
Document Number N/A		Document Number 123456		Document Number 123456789
Expiration Date (if any) (mm/dd/yyyy) N/A		Expiration Date (if any) (mm/dd/yyyy) 02/22/2022		Expiration Date (if any) (mm/dd/yyyy) N/A

Document Title N/A	Additional Information Remote inspection completed on 03/30/2020 <i>COVID-19 Documents physically examined on mm/dd/yyyy by HR Manager Betsy Ross</i>	QR Code - Section 2 Do Not Write In This Space 
Issuing Authority N/A		
Document Number N/A		
Expiration Date (if any) (mm/dd/yyyy) N/A		

Section 2, Part II:

Certification

Expiration Date (if any) (mm/dd/yyyy) ?		
Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.		
The employee's first day of employment (mm/dd/yyyy): ?		(See instructions for exemptions)
Signature of Employer or Authorized Representative ?	Today's Date (mm/dd/yyyy) ?	Title of Employer or Authorized Representative ?
Last Name of Employer or Authorized Representative ?	First Name of Employer or Authorized Representative ?	Employer's Business or Organization Name ?
Employer's Business or Organization Address (Street Number and Name) ?	City or Town ?	State ? ▼
		ZIP Code ?

Section 3:

Reverification and Rehires

		Instructions	Start Over	Print
Employment Eligibility Verification Department of Homeland Security U.S. Citizenship and Immigration Services			USCIS Form I-9 OMB No. 1615-0047 Expires 10/31/2022	
Employee Name from Section 1:	Last Name (Family Name) ?	First Name (Given Name) ?	Middle Initial ?	
Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)				
A. New Name (if applicable) ?			B. Date of Rehire (if applicable)	
Last Name (Family Name) ?	First Name (Given Name) ?	Middle Initial ?	Date (mm/dd/yyyy) ?	
C. If the employee's previous grant of employment authorization has expired, provide the information for the document or receipt that establishes continuing employment authorization in the space provided below.				
Document Title ?	Document Number ?	Expiration Date (if any) (mm/dd/yyyy) ?		
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.				
Signature of Employer or Authorized Representative ?	Today's Date (mm/dd/yyyy) ?	Name of Employer or Authorized Representative ?		
Click to Finish				

Acceptable Documents



List of Acceptable Documents

Employees must present: one ID from List A; OR one ID from List B and List C

LISTS OF ACCEPTABLE DOCUMENTS				
All documents must be UNEXPIRED				
Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.				
LIST A Documents that Establish Both Identity and Employment Authorization	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
1 U.S. Passport or U.S. Passport Card		1 Driver's license or ID card issued by a		1 A Social Security Account Number

List of Acceptable Documents:

List A

LIST A Documents that Establish Both Identity and Employment Authorization	
1. U.S. Passport or U.S. Passport Card	
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)	
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa	
4. Employment Authorization Document that contains a photograph (Form I-766)	
5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status:	a. Foreign passport; and b. Form I-94 or Form I-94A that has the following: (1) The same name as the passport; and (2) An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.
	6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI

List of Acceptable Documents:

Lists B & C

OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Authorization
	1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION
	2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address		2. Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240)
	3. School ID card with a photograph		3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
	4. Voter's registration card		
	5. U.S. Military card or draft record		4. Native American tribal document
	6. Military dependent's ID card		
	7. U.S. Coast Guard Merchant Mariner Card		5. U.S. Citizen ID Card (Form I-197)
	8. Native American tribal document		6. Identification Card for Use of Resident Citizen in the United States (Form I-179)
	9. Driver's license issued by a Canadian government authority		
	For persons under age 18 who are unable to present a document listed above:		7. Employment authorization document issued by the Department of Homeland Security
	10. School record or report card		
	11. Clinic, doctor, or hospital record		
	12. Day-care or nursery school record		

List of Acceptable Documents

- Documents must be unexpired
- Documents must be presented within 3 business days of hire
- Photocopied documents are not acceptable
- Receipts in lieu of IDs
- Accept documents that reasonably appear to be genuine and relate to the person presenting them

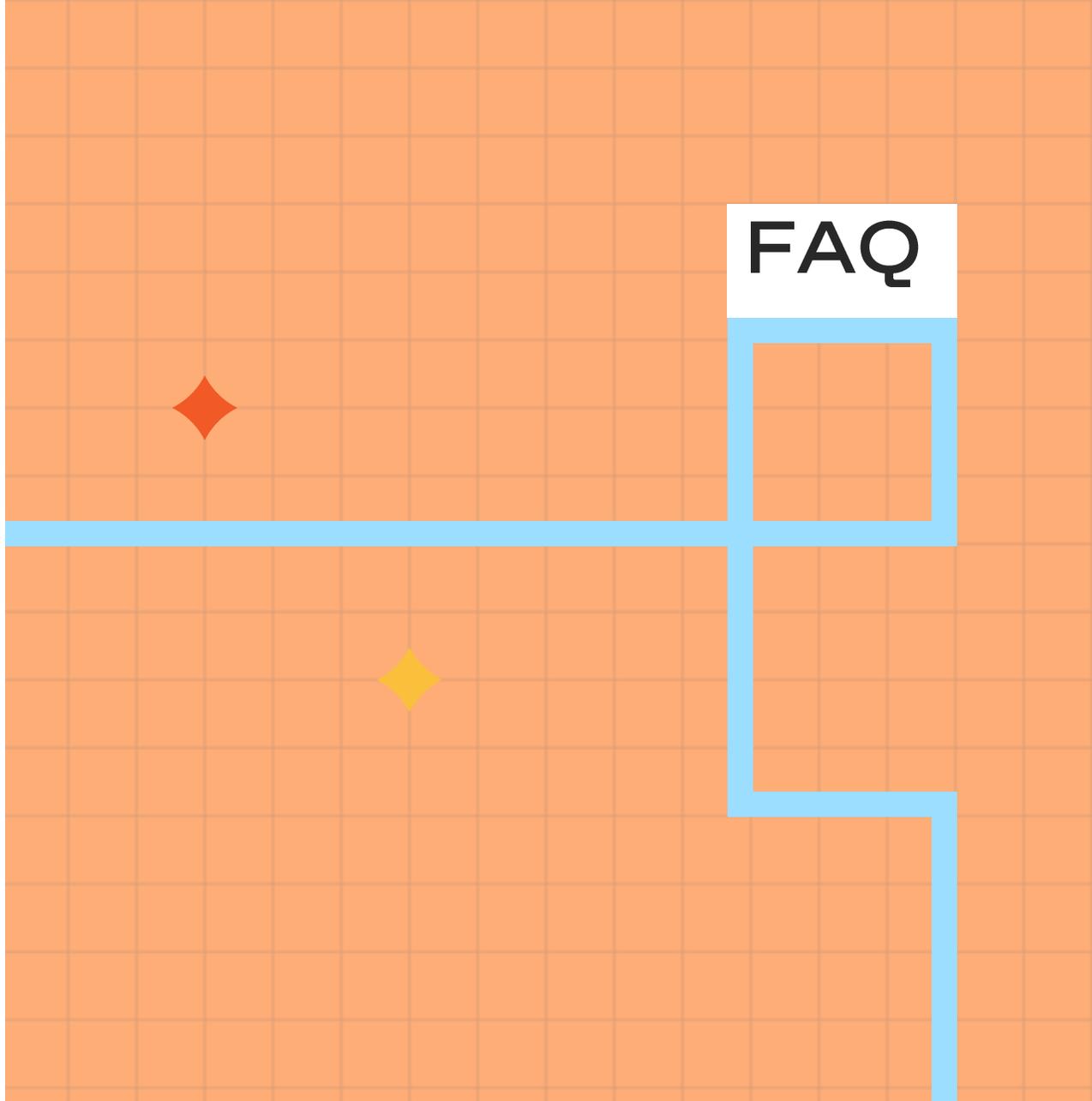


Question:

What should I do about an I-9 for a remote employee?

Answer:

There isn't much wiggle room here, as the documents must be in-hand of the company representative who completes Section 2, and in the presence of the new employee.

A graphic on the right side of the slide features a light blue stepped border on an orange grid background. The letters 'FAQ' are written in a bold, black, sans-serif font inside a white rectangular box at the top of the border. A red diamond is positioned in the upper left area of the grid, and a yellow diamond is in the lower middle area.

FAQ

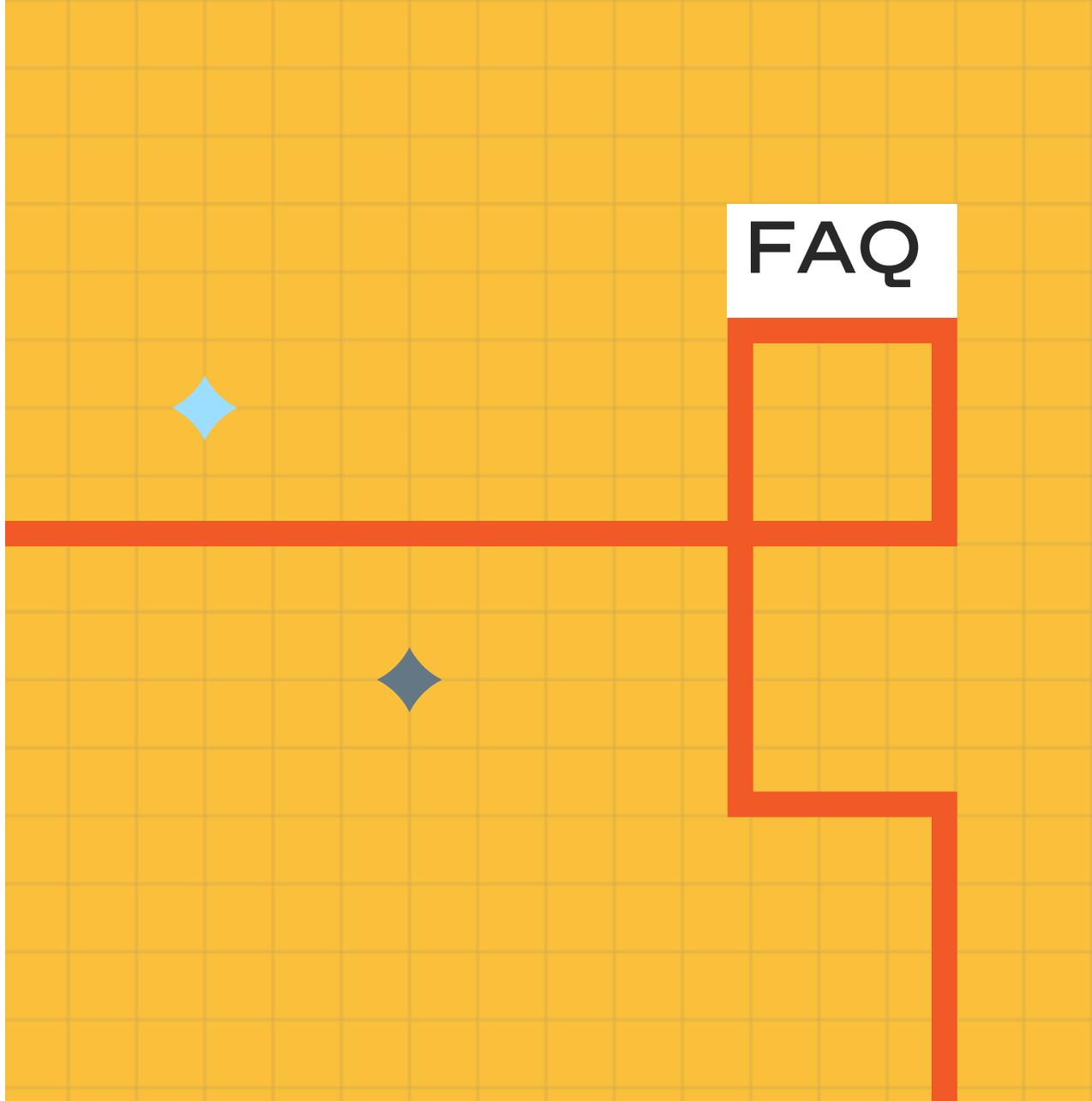
Document Type	Issuing Authority
U.S. Passport or Passport Card	U.S. Department of State
Permanent Resident Card	U.S. Citizenship and Immigration Services (USCIS)
Employment Authorization Card	U.S. Citizenship and Immigration Services (USCIS)
Driver's License or State-Issued ID	Any state, territory, or Canadian government authority
Social Security Card	U.S. Social Security Administration or U.S. Department of Health & Human Services
Birth Certificate	U.S. Department of State or State, county, municipal authority, or outlying possession of the U.S.

Question:

What if an individual's Social Security Card states "Not Valid for Employment" or "Valid for Work only with DHS Authorization"?

Answer:

A card with either of these statements is not valid for employment for acceptable for completion of the I-9. These cards may be used with time limited work authorizations such as a H1b or student visa. Unless other documents have been provided to establish work authorization, defer to the List of Acceptable Documents.

A graphic on the right side of the page features a yellow background with a light gray grid. A thick orange line forms a stepped path that starts from the left, goes right, then up, then right again, and finally down. The letters "FAQ" are written in a bold, black, sans-serif font inside a white rectangular box at the top right of the path. There are two diamond-shaped icons: a light blue one in the upper left and a dark blue one in the lower right of the grid.

FAQ

Penalties and Other Considerations





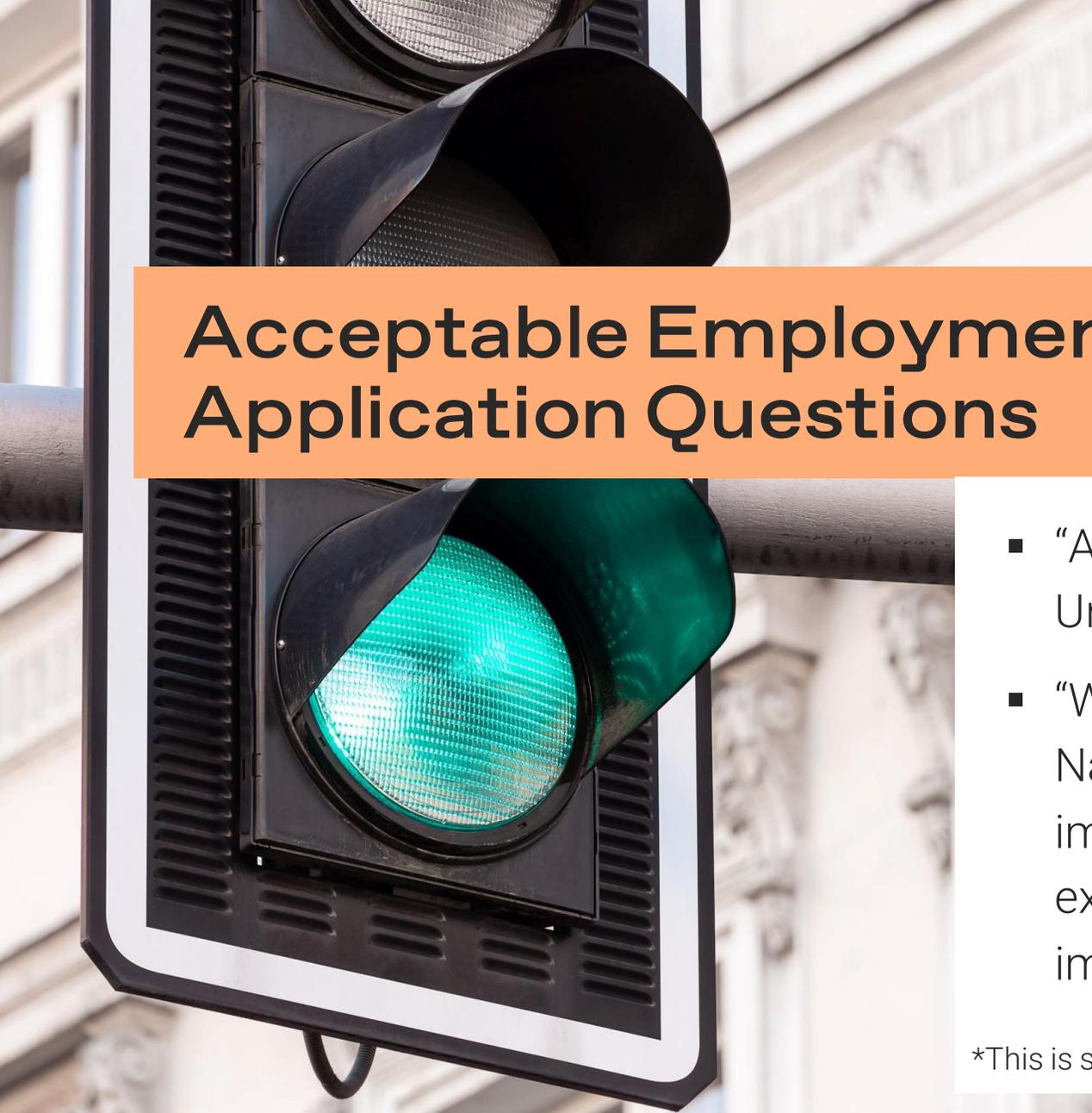
Employer Penalties

- Civil penalties and civil document fraud
- Criminal penalties



Unlawful Discrimination

- It is illegal to discriminate based upon citizenship or immigration status
- Laws prohibit employers from hiring only U.S. citizen or lawful permanent residents
- Employers may not require “proof” prior to an accepted job offer
- Choice of document

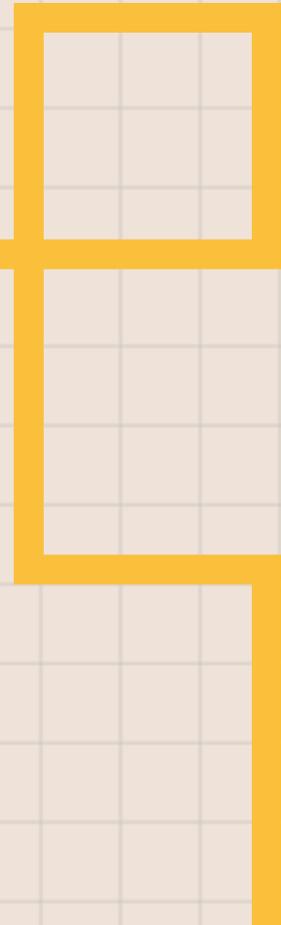


Acceptable Employment Application Questions

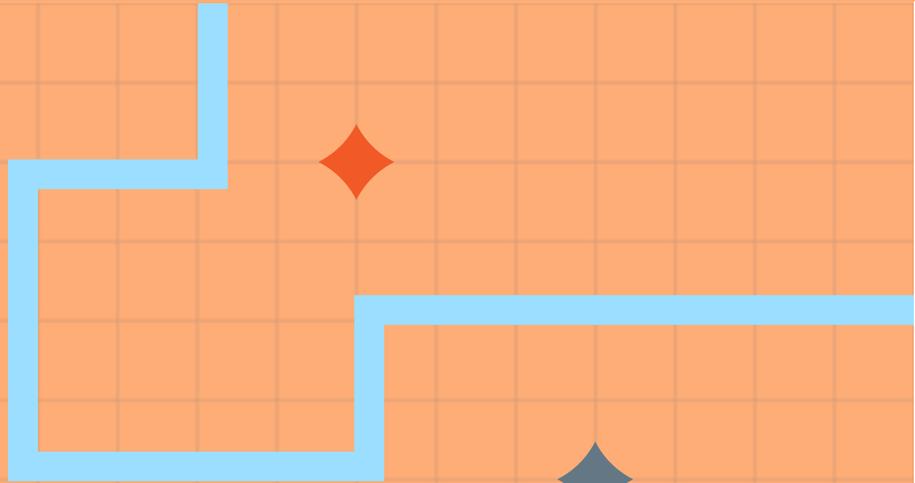
- “Are you authorized to work lawfully in the United States for [Company Name]?”
- “Will you now or in the future require [Company Name] to commence or sponsor* an immigration case in order to employ you (for example, H-1B or other employment-based immigration case)?”

*This is sometimes called “sponsorship” for an employment-based visa status.

E-Verify



What is E-Verify?



- Internet-based system that compare information from the I-9 to government records
- Free USCIS system
- Does not change the I-9 process and is not completed in lieu of an I-9

E-Verify Requirements

- Optional for most U.S. employers
- Required by federal or state law:
 - Federal contractors and subcontractors if the contractor contains the Federal Acquisition Regulation E-Verify clause
 - Required in: Alabama, Arizona, Mississippi, and South Carolina
 - Required for some employers, based on size, in: Georgia, North Carolina, and Tennessee



E-Verify Requirements



If you participate in E-Verify (voluntarily or based on required use):

- Newly hired employees must provide a Social Security Number
- Any List B document must contain a photograph
- Certain documents must be photocopied for E-Verify photo matching (U.S. Passport or passport card, Permanent Resident Card, Employment Authorization Document, U.S. Passport or passport card)

Audits





Poll Question

**Have you ever audited
your I-9 files?**



Conducting an Internal I-9 Audit

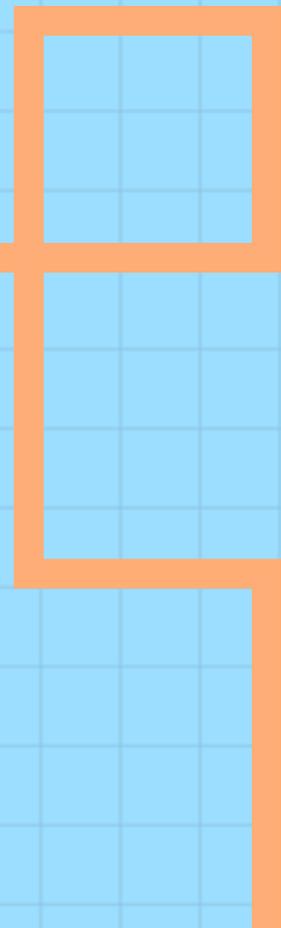
- Why audit
 - When to audit
 - What is generally found in an audit
- 
- 

Internal I-9 Audit Steps

- Organize documents
- Determine priorities
- Reach out to each employee without an I-9 or with an incomplete I-9
- Corrections
- Terminated employees
- Recording the audit



Q+A



Thank you!

