

Form I-9, Employment Eligibility Verification Employer Retention Date Calculation

The Department of Homeland Security (“DHS”) requires all employers to have a completed Form I-9, Employment Eligibility Verification, on file for each person on the employer’s payroll or is receiving any other type of remuneration. DHS requires the following with respect to retention of completed Form I-9, Employment Eligibility Verification:

- All employers must keep a completed Form I-9, Employment Eligibility Verification, for a certain amount of time after an employee stops working for the employer.
- All employers must have a completed Form I-9, Employment Eligibility Verification, on file for each person on the employer’s payroll or is receiving any other type of remuneration.
- Employers must never mail any Form I-9, Employment Eligibility Verification to DHS.
- Once an employee ceases work for an employer, the employer must then determine how much longer the employee’s Form I-9, Employment Eligibility Verification, should be retained.
- When calculating the final retention date for a Form I-9, Employment Eligibility Verification, employer’s may proceed with the following DHS calculation:

1)	Date the employee began work for pay:	_____
2)	Add 3 years to the date on line 1:	_____
3)	The date employment was terminated:	_____
4)	Add 1 year to the date on line 3:	_____
5)	Enter the Later of the Dates on Line 2 or Line 4:	_____

- **Employers must retain the Form I-9, Employment Eligibility Verification, until the date listed on Line 5.** This calculation only applies only to retention requirements for former employees, as employers must always have a Form I-9, Employment Eligibility Verification, for any individual on the employer's payroll or receiving any other type of remuneration.
- If an employer discovers that an employee does not have a Form I-9, Employment Eligibility Verification, on file with the employer, the employer must take corrective actions.

To learn more about this Form I-9, Employment Eligibility Verification, retention procedures, please contact Attorney Raymond G. Lahoud, Chair of the Norris McLaughlin & Marcus Immigration Law Practice Group at rglahoud@nmmlaw.com.