



# Texas Dairy Matters

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## **Completing Form I-9: Critical Step with New Employees**

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*The following information is for educational purposes and should not be considered as legal advice. If you have any questions about employment requirements or regulations the Texas Association of Dairywomen and Texas AgriLife Extension Service advise you to consult with an attorney regarding your specific situation.*

### ***What is Form I-9?***

Form I-9 is an employment eligibility verification form. The complete instructions for Form I-9 are in the [Handbook for Employers, United States Department of Homeland Security, U.S. Citizenship and Immigration Service](#), Nov. 2007 (available through websites below). Reference to the page where detailed information can be found is located at the end of each question.

### ***Why must Form I-9 be completed on an employee's first day of work (page 1)?***

Employers are required by law to hire only persons who may legally work in the United States: citizens and nationals of the United States and aliens authorized to work in the United States. To comply with the law, employers must verify the identity and employment eligibility of anyone hired, and complete and retain a Form I-9.

### ***Where can copies of Form I-9 be obtained?***

Form I-9 can be downloaded from the Internet at: <http://www.uscis.gov/files/form/I-9.pdf>  
The Office of Management and Budget (OMB) recently issued a new version of Form I-9 which expires June 30, 2009.

### ***Which employees require a Form I-9 (page 5)?***

Everyone hired (including the owner if operating as a business entity such as a corporation or partnership; page 27, question 45) after Nov. 6, 1986 should have a Form I-9 completed and on file.

### ***When must it be completed (page 6)?***

The employee is required to complete Section 1 of Form I-9 by close of the business day on which he or she starts work. The employee must provide an original document or documents that establish identity and employment eligibility for the employer to complete Section 2 within 3 business days of beginning work. For employees who do not have the required documents, see page 6-7 of the [Handbook for Employers](#). Employers may not discriminate against employees on the basis of national origin or citizenship status, thus Form I-9 is completed **AFTER** hiring.

***Who completes which section of Form I-9 (page 5-11)?***

***Section 1*** – Employee

***Sections 2 and 3*** – Employer

***What documents can the new employee present to verify identity and employment eligibility (page 31-32; examples, page 33-42)?***

Employers should refer to Form I-9 (OMB No. 1615-0047; Expires 6/30/09) for the list of acceptable documents. Review of original documents which demonstrate the employee's identity and eligibility to work in the U.S. must be made personally by the employer.

***Should photocopies of the documents be kept?***

This is permissible, but not required. If an employer, in consultation with advisors, decides photocopies will be kept, the policy must be applied consistently to every employee, without regard to citizenship or national origin.

***Can certain documents be required by an employer (page 22)?***

No, any documents on the list may be presented as long as they verify both identity and employment eligibility, appear to be genuine, and belong to the person presenting them. Either one document from List A **or** one from List B and one from List C must be presented. The employer records the title, issuing authority, number, and expiration date (if any) of the document(s); fills in the date of hire and correct information in the certification block; and signs and dates Form I-9.

***What if the employee's documents have an expiration date (page 10)?***

The employer will need to re-verify the employee's eligibility to work when any expiration date on Form I-9 is reached.

***What if the employee is a minor (page 8)?***

Form I-9 must still be completed; however, alternatives exist when minors do not have all of the required documents.

***Where should Form I-9 be filed (page 16-17)?***

Form I-9 is not filed with the U.S. government. It must be stored so that the documents can be retrieved and transmitted to the worksite within 3 days of an official request for production of the documents for inspection by authorized U.S. government officials (e.g., Immigration and Customs Enforcement, Department of Labor, and/or the Justice Department's Office of Special Counsel for Unfair Immigration-Related Employment Practices).

***How long must the completed Form I-9s be kept (page 12)?***

Retain Form I-9 for 3 years after the date the person begins work or 1 year after the person's employment is terminated, **whichever is later**.

***What are the penalties for not completing Form I-9 (page 17)?***

Employers face fines (frequently on a per employee basis) if they fail to properly complete, retain, and/or make available for inspection Form I-9. For those convicted of having engaged in a pattern or practice of knowingly hiring or continuing to employ unauthorized aliens after Nov. 6, 1986, fines and imprisonment are possible. For more detailed information also see resource links on websites listed below to access the bulletin, [Employer Sanctions](#).

***Links to resources highlighted in blue, as well as additional resource links, may be found at either: [texasdairymatters.org](http://texasdairymatters.org) or [www.milk4Texas.org](http://www.milk4Texas.org).***

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Information as of June 24, 2008.