



The holiday season and holiday shopping may look a little different this year,

especially as more purchases are made online. To respond to the annual influx of orders, employers may hire seasonal workers to assist. In doing so, employers should keep in mind that all new employees, even if only seasonal and temporary, must demonstrate employment eligibility by completing the I-9 Employment Eligibility Verification Form (I-9 form or Form I-9) and providing evidence of their identity and employment authorization. Here are some helpful tips for employers who plan to hire seasonal workers this year:

- Employees are required to complete Section 1 of the I-9 form at the time of hire, which is the first day the employee starts work for pay. Employees may complete Section 1 before the time of hire, but a job offer must be extended and accepted first. Among other things, Section 1 requires the employee to affirm their employment authorization status.
- An employer must complete Section 2 of Form I-9 and the corresponding verification process within three business days of the date employment begins. This process includes the employee presenting the employer with original documents evidencing the employee's identity and employment eligibility from an acceptable list of documents included with the I-9 form. Employers must allow the employee to choose which documents to present from the list of acceptable documents. While employees are always entitled to three business days to produce acceptable documents, employers may ask new employees to bring acceptable I-9 documents on the first day of employment for quicker and easier completion of the I-9 verification process.
- If an employee is hired for three days or less, the I-9 process must be completed no later than the first day of employment. Employees in this case do not have the usual three business days to produce acceptable documents evidencing identity and employment authorization.
- There are situations in which certain seasonal employees may not be considered as new hires, but rather as continuing in their employment. In this circumstance the employer may rely on an existing I-9 form. Whether the employee is continuing employment versus being hired is determined based on the facts surrounding the situation. We encourage employers to reach out to legal counsel if they believe they may

- have one or more employees who are continuing employment.
- Employers who are subject to or otherwise utilize E-Verify should ensure seasonal employees are verified through the E-Verify program, as applicable. Certain states may allow exemptions from mandatory E-Verify requirements for seasonal workers.
  - I-9 forms must be maintained for the full period of employment. If employment is terminated, the retention period for the Form I-9 is one year after the date of termination or three years after the date of hire, whichever is later. This means that I-9 forms for employees who work for less than two years must be retained for a total of three years after the date of hire.
  - Employers should remember to remain consistent in their I-9 verification process and practices and treat seasonal employees as they would all other employees.

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