



Record Maintenance and Retention

Dear Reader:

The following document was created from the MTAS website ([mtas.tennessee.edu](https://www.mtas.tennessee.edu)). This website is maintained daily by MTAS staff and seeks to represent the most current information regarding issues relative to Tennessee municipal government.

We hope this information will be useful to you; reference to it will assist you with many of the questions that will arise in your tenure with municipal government. However, the *Tennessee Code Annotated* and other relevant laws or regulations should always be consulted before any action is taken based upon the contents of this document.

Please feel free to contact us if you have questions or comments regarding this information or any other MTAS website material.

Sincerely,

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The Form I-9 must be maintained for as long as the individual works for you. Once the individual's employment has terminated, the Form I-9 must be maintained for at least three years after the date of hire or one year after the date of termination, whichever is later. The handbook provides that "the forms can be retained in paper, microfilm, microfiche, or electronically".

Form I-9 can be signed and stored in paper format. A simple photocopy or printed I-9 form can help ensure that the employee received the instruction for completing the form. You may retain the completed paper forms on-site, or at an off-site storage facility, for the required retention period, as long as the employer is able to present the form within three days of an inspection request from DHS, OSC, or the U.S. Department of Labor.

8 C.F.R. Part 274a.2(b)(2)(iii) provides that Form I-9 may also be stored on microfilm or microfiche or electronic version of the form. You only have to keep the pages of the Form I-9 which you or the employee entered data. To do so:

- Select film stock that will preserve the image and allow its access and use for the entire retention period, which could be 20 years or more.
- Use well-maintained equipment to create and view microfilms and microfiche that provides clear viewing and can reproduce legible paper copies. DHS must have immediate access to clear, readable documents should they need to inspect the employer's forms.
- Place indexes either in the first frame of the first roll of film, or in the last frames of the last roll of film of a series.

USCIS provides a "Portable Document Format" (PDF) printable form I-9 from its website, <http://www.uscis.gov/i-9> [1]. Employers may electronically generate and retain Form I-9 as long as:

- The resulting form is legible;
- No change is made to the name, content, or sequence of the data elements and instructions;
- No additional data elements or language are inserted;
- The employee receives Form I-9 instructions; and
- The standards specified under 8 C.F.R. § 274a.2(e) are met.

The standard specifies that to store records electronically, the employer may complete or retain the forms in an electronic generation or storage system that includes:

- Reasonable controls to ensure the integrity, accuracy, and reliability of the electronic storage system.
- Reasonable controls designed to prevent and detect the unauthorized or accidental creation of, addition to, alteration of, deletion of, or deterioration of an electronically completed or stored record, including the electronic signature, if used.
- An inspection and quality assurance program that regularly evaluates the electronic generation or storage system, and includes periodic checks of electronically stored Form I-9, including the electronic signature, if used.
- A retrieval system that includes an indexing system that permits searches by any data element.
- The ability to reproduce legible paper copies.

Part Three of the handbook [2], Guidance for Completing Form I-9, now includes information about electronically signing and retaining I-9 forms. If you complete Form I-9 electronically using an electronic signature, your system for capturing electronic signatures must allow signatories to acknowledge that they read the attestation and attach the electronic signature to an electronically completed Form I-9. In addition the system must:

- Affix the electronic signature at the time of the transaction;

- Create and preserve a record verifying the identity of the person producing the signature; and
- Provide a printed confirmation of the transaction, at the time of the transaction, to the person providing the signature.

If you retain Forms I-9 electronically, you must implement an effective records security program that:

- Ensures only authorized personnel have access;
- Provides for backup and recovery of records;
- Ensures that employees are trained to minimize risk of unauthorized alteration or erasure of electronic records; and
- Ensures that whenever an individual creates, completes, updates, modifies, alters, or corrects an electronic record, the system creates a secure and permanent record that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.

You may choose to copy or scan documents an employee presents when completing Form I-9, which you may, but are not required to do, retain with his/her Form I-9. If copies or electronic images of the employee's documentation are made, they must either be retained with Form I-9 or stored with the employee's records.

Links:

[1] <https://www.uscis.gov/sites/default/files/files/form/i-9.pdf>

[2] <https://www.uscis.gov/sites/default/files/files/form/m-274.pdf>

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