

DOCUMENT RETENTION IN THE IMMIGRATION CONTEXT

IMMIGRATION DOCUMENT	HOW LONG SHOULD THE DOCUMENT BE KEPT	WHERE SHOULD THE DOCUMENT BE STORED	NOTES
I-9 Employment Eligibility Verification	Three years after date of hire, or one year after the date employment is terminated. For example, if an employee retires after 15 years, his or her Form I-9 will be stored for a total of 16 years.	I-9s can be retained in paper, microfilm, microfiche, or electronic formats. You may retain completed paper forms on-site or off-site at a storage facility, as long as you are able to present the I-9 Forms within three days of an inspection request. You may also use any electronic recordkeeping, attestation, and retention system that complies with Department of Homeland Security standards.	We recommend that employers keep their I-9s in a separate location from personnel records. Several government agencies have the authority to inspect your I-9 files, and by keeping them separate you are limiting the government's access to your unrelated information.
Labor Condition Application (LCA)/ Public Access File¹	An employer must retain copies of the LCA and the public inspection file for one year beyond the end of the period of employment specified on the LCA, or one year from the date the LCA is withdrawn, except in the case of Department of Labor (DOL) enforcement action.	The inspection file should be kept at either the employer's principal place of business or the location where the employee works.	We recommend that this documentation be kept separate from the employee's personnel records. An employer must also retain payroll records for three years from the date the records were created. Payroll records for each employee must include the following: employee full name; employee home address; employee's occupation; employee's rate of pay; hours worked by the employee each day and each week, if paid on other than a salary basis; total additions to or deductions from pay each pay period by employee; and total wages paid each pay period, date of pay and pay period covered by the payment by employee.

¹As of October, 1991, all employers using the H-1B category (as well as H-1B1 and E-3 categories) must first file a Labor Condition Application (LCA) with the U.S. Department of Labor. An employer should have a public inspection file for each LCA submitted. The inspection file should contain the following: a copy of the LCA (Form ETA 9035); documentation that states the wage rate to be paid to the H-1B employee; a clear explanation of the system that was used to set the "actual wage" for the occupation in which the H-1B employee will be engaged; documentation that the employer relied on to determine the "prevailing wage" for the occupation; and documents establishing how the employer complied with the notice requirement.



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Employment-Based Nonimmigrant Visa Petition	The petition should remain on file for as long as the petition is valid. In addition, while there is no legal requirement to do so, employers should consider retaining petitions until the employee has attained permanent resident status or is no longer employed.	We recommend that petitions be stored on-site in the event of a worksite inspection. They may be stored either electronically or in paper format.	
PERM Labor Certification and PERM Audit File	The employer is required to retain the labor certification application and all supporting documentation for five years from the date of filing the ETA Form 9089.	It is not necessary for an employer to keep its PERM files on-site. They can be retained by the employer's lawyers. The employer should be able to access the files if needed.	The DOL can begin the process of revoking labor certification beyond five years. Thus, the employer may wish to consider retention beyond the five year period, in the event that it may need to defend against a revocation proceeding.
I-140 Immigrant Petition for Alien Workers	While there is no retention requirement, employers should consider retaining petitions until the employee has attained permanent resident status.	We recommend that petitions be stored on-site in the event of a worksite inspection. They may be stored either electronically or in paper format.	



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