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2017 MWG EMPLOYER SERVICES HR & LABOR OUTLOOK

Fair Labor Standards Act

Immigration Regulations and Overview of New I-9

New EEO Reporting Requirements and Forms

Best Practices in HR

American Health Care Act of 2017
The Fair Labor Standards Act (FLSA) is a federal law which establishes minimum wage, overtime and part-time workers in the private sector and in federal, state, and local governments.

Who is covered by FLSA?

- Over 135 million workers in more than 7 million workplaces
- Enforcement - Wage and Hour Division of the U.S. DOL.
- "Enterprise Coverage" and "Individual Coverage."
- The FLSA "covers" or applies to all employees of certain "enterprises."
- All employees of an enterprise, as defined by the FLSA, are covered regardless of the duties they perform.
Who is an “Employee”? 

- To be considered an “Employee”, an employment relationship must exist between the worker and the employer.

- “Employ” is defined as “suffer or permit to work”, which covers work the employer directs or allows to take place.

- The terms “1099 Employees” or “Contract Employees” are oxymoron. Independent contractors are in business for themselves. These workers are NOT employees.
Defining a Workweek

• A 7-day work period must be designated by the Employer to determine a 40-hour work week.

• You must notify your Employee(s) of designated work week.

• Non-Exempt Employees must be paid overtime for more than 40 hours within the work week (unless classified as emergency personnel).

• Some states define overtime as more than 8 hours a day.
Defining a Workday

- The time an Employee starts and ends their job duties required by the Employer.

- Work not requested but be performed is work time that must be paid by employer.
**Exempt vs. Non-Exempt**

In order to determine if an employee is EXEMPT you must qualify employee in all 3 Test requirements:

1. Salary Basis ONLY
2. Minimum Salary
3. Job Duties Test
Non-Exempt Employees:

• Did not pass ALL 3 testing requirements.

• Must be paid federal minimum wage of $7.25 or more per hour worked.

• Entitled to overtime pay. Overtime for Mississippi and Louisiana are more than 40 hours worked in a work week.

• Must record employee’s worked time.
Salary Base Test

• Fixed salary paid to employee for work performed.

• The salary IS NOT subject to reduction due to work quality or quantity.

Salary Level Test

• Current minimum is $455/Wk., $23,660/Yr.

• Current minimum for highly compensated employees is $100,000 annually

• Maximum 10% - nondiscretionary bonuses, incentive payments, or commissions.
Immigration Reform and Control Act (IRCA) – I-9

- All employers operating in the United States must comply with the IRCA, regardless of size.
- There is no small employer exemption.
- A I-9 must be completed on ALL employees.
- The hiring status of an employee, part-time or full-time status, is irrelevant.
• The new I-9 form, dated 11/14/2016, **CAN** be used until **9/17/17**. The new I-9 form, with a revised date of 7/17/17, **must be used starting 9/18/17**.

• You should review the I-9 instructions to understand the employer’s responsibility and the employee’s responsibility when the completing the form.

• You cannot require specific documents from an employee, to complete the I-9 form.

• Provide employee with the acceptable I-9 document list.

• The employee may submit **one** document from List A **or one** document from List B **AND one** document from List C (2 total).

• Review acceptable documents submitted by employee for credibility.

**I-9 forms and instructions are available at:** [https://www.uscis.gov/i-9](https://www.uscis.gov/i-9)
All forms have been consolidated into Box 2

---

All documents must be UNEXPIRED

Employees may present one selection from List A or a combination of one selection from List B and one selection from List C.

<table>
<thead>
<tr>
<th>LIST A Documents that Establish Both Identity and Employment Authorization</th>
<th>LIST B Documents that Establish Identity</th>
<th>LIST C Documents that Establish Employment Authorization</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. U.S. Passport or U.S. Passport Card</td>
<td>1. Driver’s license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address</td>
<td>1. A Social Security Account Number card, unless the card includes one of the following restrictions:</td>
</tr>
<tr>
<td>2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)</td>
<td>2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address</td>
<td>(1) NOT VALID FOR EMPLOYMENT</td>
</tr>
<tr>
<td>3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa</td>
<td>3. School ID card with a photograph</td>
<td>(2) VALID FOR WORK ONLY WITH INS AUTHORIZATION</td>
</tr>
<tr>
<td>4. Employment Authorization Document that contains a photograph (Form I-766)</td>
<td>4. Voter’s registration card</td>
<td>(3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION</td>
</tr>
<tr>
<td>5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status:</td>
<td>5. U.S. Military card or draft record</td>
<td>2. Certification of report of birth issued by the Department of State (Forms DS-1350, FS-545, FS-240)</td>
</tr>
<tr>
<td>a. Foreign passport; and</td>
<td>6. Military dependent’s ID card</td>
<td>3. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal</td>
</tr>
<tr>
<td>b. Form I-94 or Form I-94A that has the following:</td>
<td>7. U.S. Coast Guard Merchant Mariner Card</td>
<td>4. Native American tribal document</td>
</tr>
<tr>
<td>(1) The same name as the passport; and</td>
<td>8. Native American tribal document</td>
<td>5. U.S. Citizen ID Card (Form I-197)</td>
</tr>
<tr>
<td>(2) An endorsement of the alien’s nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.</td>
<td>9. Driver’s license issued by a Canadian government authority</td>
<td>6. Identification Card for Use of Resident Citizen in the United States (Form I-179)</td>
</tr>
<tr>
<td>6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI</td>
<td>For persons under age 18 who are unable to present a document listed above:</td>
<td>7. Employment authorization document issued by the Department of Homeland Security</td>
</tr>
<tr>
<td></td>
<td>10. School record or report card</td>
<td></td>
</tr>
</tbody>
</table>
Employee must complete Section 1

Last Names Only

NEW I-9 FORM AND CHANGES

CHANGES ARE NOTATED BELOW
CHANGES ARE NOTATED BELOW

I attest, under penalty of perjury, that I am (check one of the following boxes):

- 1. A citizen of the United States
- 2. A noncitizen national of the United States (See instructions)
- 3. A lawful permanent resident (Alien Registration Number/USCIS Number):
- 4. An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy):
  - Some aliens may write "N/A" in the expiration date field. (See instructions)
  
Aliens authorized to work must provide only one of the following document numbers to complete Form I-9:
An Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number.

1. Alien Registration Number/USCIS Number: _____________________________
   OR
2. Form I-94 Admission Number: _____________________________
   OR
3. Foreign Passport Number: _____________________________
   Country of Issuance: _____________________________

Signature of Employee: _____________________________
Today’s Date (mm/dd/yyyy): _____________________________

Preparer and/or Translator Certification (check one):

- I did not use a preparer or translator.
- A preparer(s) and/or translator(s) assisted the employee in completing Section 1.
  (Fields below must be completed and signed when preparers and/or translators assist an employee in completing Section 1.)

I attest, under penalty of perjury, that I have assisted in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.

Signature of Preparer or Translator: _____________________________
Today’s Date (mm/dd/yyyy): _____________________________

Last Name (Family Name): _____________________________
First Name (Given Name): _____________________________
Address (Street Number and Name): _____________________________
City or Town: _____________________________
State: _____________________________
ZIP Code: _____________________________
CHANGES ARE NOTATED BELOW

Employment Eligibility Verification
Department of Homeland Security
U.S. Citizenship and Immigration Services

Section 2. Employer or Authorized Representative Review and Verification
(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee’s first day of employment. You must physically examine one document from List A OR a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents." )

<table>
<thead>
<tr>
<th>Employee Info from Section 1</th>
<th>Last Name (Family Name)</th>
<th>First Name (Given Name)</th>
<th>M.I.</th>
<th>Citizenship/Immigration Status</th>
</tr>
</thead>
</table>

**List A**
- one document needed
- Must be completed by employer or representative

**List B & C**
- two documents needed
- Use for e-Verify documentation number or term date information

**Completion required**
- Note this date is 1st day of employment

**Form Instructions**

Certification: I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee’s first day of employment (mm/dd/yyyy): __________________ (See instructions for exemptions)
• Began as a strictly voluntary program.

• Federal contractors must use the system.

• Mississippi and Louisiana require all employers to use E-Verify.

• Employers are required to have an E-Verify poster displayed.
• Begin the I-9 process on date of hire.

• I-9 instructions include approved abbreviations for acceptable documents.

• Forms and documents must be kept in a locked file and separate from employee files.

• Terminated employee forms should be kept separately from current employees. Term forms should be retained for three years after the date of hire or one year after the term date, whichever is later.

• If your state requires e-Verify, make sure you complete the required documentation.

• Remember to process employees using E-Verify.
EEO-1 REPORTING

WHAT IS THE PURPOSE?
• The data is used to analyze employment patterns, such as the representation of women and minorities within companies, industries or regions.

WHO REPORTS?
• Employers with 100 or more employees (employee totals include if company is owned by or corporately affiliated with another company). The count reflects part-time and full-time employees.

CHANGES IN EEO1 REPORTING REGULATIONS AS OF MARCH 2018:
• Reporting will be submitted no later than March 31, 2018.
• Select a single pay period during October 1st – December 31st.
• Reporting on total number of employees per job classification code in each of the following categories:
  • sex
  • Race
  • Ethnicity
  • W-2 hours worked
  • W-2 wages
## PREVIOUS EEO-1 FORM (SECTION D)

### Section D - Employment Data

Employment at this establishment - Report all permanent full- and part-time employees including apprentices and on-the-job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered in totals.

<table>
<thead>
<tr>
<th>Job Categories</th>
<th>Hispanic or Latino Male</th>
<th>Hispanic or Latino Female</th>
<th>Not-Hispanic or Latino Male</th>
<th>Not-Hispanic or Latino Female</th>
<th>Total Male</th>
<th>Total Female</th>
<th>Total G = A + N</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive/Senior Level Officials and Managers</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>First/Mid-Level Officials and Managers</td>
<td>1</td>
<td>1</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>5</td>
</tr>
<tr>
<td>Professionals</td>
<td>2</td>
<td>2</td>
<td>3</td>
<td>3</td>
<td>5</td>
<td>5</td>
<td>10</td>
</tr>
<tr>
<td>Technicians</td>
<td>3</td>
<td>3</td>
<td>4</td>
<td>4</td>
<td>7</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td>Sales Workers</td>
<td>4</td>
<td>4</td>
<td>5</td>
<td>5</td>
<td>9</td>
<td>9</td>
<td>18</td>
</tr>
<tr>
<td>Administrative Support Workers</td>
<td>5</td>
<td>5</td>
<td>6</td>
<td>6</td>
<td>11</td>
<td>11</td>
<td>22</td>
</tr>
<tr>
<td>Craft Workers</td>
<td>6</td>
<td>6</td>
<td>7</td>
<td>7</td>
<td>13</td>
<td>13</td>
<td>26</td>
</tr>
<tr>
<td>Operatives</td>
<td>7</td>
<td>7</td>
<td>8</td>
<td>8</td>
<td>15</td>
<td>15</td>
<td>30</td>
</tr>
<tr>
<td>Laborers and Helpers</td>
<td>8</td>
<td>8</td>
<td>9</td>
<td>9</td>
<td>17</td>
<td>17</td>
<td>34</td>
</tr>
<tr>
<td>Service Workers</td>
<td>9</td>
<td>9</td>
<td>10</td>
<td>10</td>
<td>19</td>
<td>19</td>
<td>38</td>
</tr>
<tr>
<td>TOTAL</td>
<td>10</td>
<td>10</td>
<td>20</td>
<td>20</td>
<td>30</td>
<td>30</td>
<td>60</td>
</tr>
<tr>
<td>PREVIOUS YEAR TOTAL</td>
<td>11</td>
<td>11</td>
<td>22</td>
<td>22</td>
<td>43</td>
<td>43</td>
<td>85</td>
</tr>
</tbody>
</table>

1. Date(s) of payroll period used: __________

### Section E - Establishment Information

(omit on the consolidated report)

1. What is the major activity of this establishment? (Be specific, i.e., manufacturing steel castings, retail grocer, wholesale plumbing supplies, title insurance, etc. Include the specific type of product or type of service provided, as well as the principal business or industrial activity.)

### Section F - Remarks

Use this item to give any identification data appearing on the last EEO-1 report which differs from that given above, explain major changes in composition of reporting units and other pertinent information.

### Section G - Certification

Check □ All reports are accurate and were prepared in accordance with the instructions. (Check on Consolidated Report only.)

□ This report is accurate and was prepared in accordance with the instructions.

<table>
<thead>
<tr>
<th>Name of Certifying Official</th>
<th>Title</th>
<th>Signature</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Name of Person to contact regarding this report</td>
<td>Title</td>
<td>Address (Number and Street)</td>
<td>Email Address</td>
</tr>
<tr>
<td>City and State</td>
<td>Zip Code</td>
<td>Telephone No. (including Area Code and Extension)</td>
<td></td>
</tr>
</tbody>
</table>

All reports and information obtained from individual reports will be kept confidential as required by Section 709(e) of Title VII. WILFULLY FALSE STATEMENTS ON THIS REPORT ARE PUNISHABLE BY LAW: U.S. CODE, TITLE 18, SECTION 1001.
REVISED EEO-1 FORM (SECTION D)

**SECTION D - EMPLOYMENT DATA**

Employment at this establishment - Report all permanent full- and part-time employees including apprentices and on-the-job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered as zeros.

<table>
<thead>
<tr>
<th>Job Categories</th>
<th>Annual Salary in Thousands</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive/Senior Level Officials and Managers 1,1</td>
<td></td>
</tr>
<tr>
<td>1. $19,239 and under</td>
<td></td>
</tr>
<tr>
<td>2. $19,240 - $24,439</td>
<td></td>
</tr>
<tr>
<td>3. $24,440 - $30,679</td>
<td></td>
</tr>
<tr>
<td>4. $30,680 - $38,999</td>
<td></td>
</tr>
<tr>
<td>5. $39,000 - $49,919</td>
<td></td>
</tr>
<tr>
<td>6. $49,920 - $62,919</td>
<td></td>
</tr>
<tr>
<td>7. $62,920 - $80,079</td>
<td></td>
</tr>
<tr>
<td>8. $80,080 - $101,919</td>
<td></td>
</tr>
<tr>
<td>9. $101,920 - $128,859</td>
<td></td>
</tr>
<tr>
<td>10. $128,960 - $163,799</td>
<td></td>
</tr>
<tr>
<td>11. $163,800 - $207,999</td>
<td></td>
</tr>
<tr>
<td>12. $208,000 and over</td>
<td></td>
</tr>
</tbody>
</table>

Now includes column for Annual Salary.
REVISED EEO-1 FORM (SECTION D - HOURS WORKED REPORTING)

SECTION D - EMPLOYMENT DATA

Employment at this establishment - Report all permanent full- and part-time employees including apprentices and on-the-job trainees unless specifically excluded as set forth in the instructions. Enter the appropriate figures on all lines and in all columns. Blank spaces will be considered as zeros.

<table>
<thead>
<tr>
<th>Job Categories</th>
<th>Annual Salary in Thousands</th>
<th>Hispanic or Latino</th>
<th>Non/Hispanic or Latino</th>
<th>Total Column A-N</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Race/Ethnicity</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>Male</td>
<td>Female</td>
<td>Male</td>
</tr>
<tr>
<td></td>
<td></td>
<td>White</td>
<td>Black or African American</td>
<td>Native Hawaiian or Pacific Islander</td>
</tr>
<tr>
<td></td>
<td></td>
<td>A</td>
<td>B</td>
<td>C</td>
</tr>
</tbody>
</table>

SAMPLE

Provide total number of hours worked last year in each cell provided.
PATIENT PROTECTION AND AFFORDABLE CARE ACT (ACA) OF 2010

- 2009 Democrats Super Majority in the Senate (w/ 2 Independents Joe Lieberman and Bernie Sanders)

- Ted Kennedy Passes on August 19, 2009

- Scott Brown wins Ted Kennedy’s Seat

- Senate Version Passed on Christmas Eve 2009

- House passed the Senate Version on Sunday, March 21st, 2010

- President Obama signed into Law on March 23rd

- March 25th - House and Senate approve Reconciliation Bill

- March 30th – President Obama signs into Law
Affordable Care Act (ACA) Repeal Update

• On Tuesday, July 25, 2017, the Senate voted on a FULL REPEAL and REPLACE of the ACA. The measure failed by a vote of 43 (for repeal) – 57 (against repeal).

• On Wednesday, July 26, 2017, the Senate voted on a PARTIAL REPEAL of the ACA. The measure failed by a vote of 45 (for repeal) – 55 (against repeal).

• On Friday, July 28, 2017, the Senate voted on a “SKINNY” REPEAL of the ACA. The measure failed by a vote of 49 (for repeal) – 51 (against repeal).
OTHER ARGUMENTS

• **Single Payer System**
  • Several States are working on Legislation
  • Biggest Hurdle is Cost (CA estimated $400 billion)
  • Who is and isn’t covered?
  • All Medical Providers would be paid by the Government
  • Cost controls will require “Medical Necessity” determinations
  • Veterans' Affairs Medical

• **Purchase/Sale of Insurance Across State Lines**
  • Cost of Living varies by State
  • Mandated Benefits vary by State
  • Adverse Selection will be out of control
  • Most insurance companies operate in multiple states
  • Protections under State Insurance Laws
• Employer & Health Plan Reporting Requirements

• Discrimination based on ANY Health Factor

• Restriction of Pre-existing Conditions

• Restrictions against Annual or Lifetime Limits

• Covering Dependent Children up to 26

• Wellness (Except specific Birth Controls)

• Mental Health and Substance Use Disorder Services

• Minimum Loss Ratio Requirements

• Minimum Levels of Coverage

• Subsidization of Premium for Low Income Families
Jennifer Thompson will be presenting

OSHA BREAKOUT SESSION

at
4:00 p.m.

8/17/17

View conference materials for room number/name