

FAQ: How Long Should Employers Retain Their Immigration Records?

Immigration filings and compliance involve storing a lot of documents. You may have questions about which documents are your responsibility to retain as an employer, as well as how to prioritize and store those.

Below is a short summary to help you determine which documents to keep, where to store them, and for how long.

General Recommendations:

- Immigration-related files should be kept separate from personnel records.
- Employers should conduct self-audits of these documents at least annually in order to:
 - Avoid potential penalties
 - Purge expired records
 - Identify areas of training
 - Consult with immigration counsel (as needed)

Type of Documents	Documents to Keep & Where	Retention Period
PAFs for H-1B, E-3 Workers	<p>Public Access Files (PAFs) include:</p> <ul style="list-style-type: none">● Labor Condition Application (LCA)● Documentation of Actual and Prevailing Wages● Summary of employees benefits● Posting Notices <p>Where? Electronically or as paper documents at employer's principal place of business or work location</p>	One year beyond the end of the employment specified on the LCA or one year from the date the LCA is withdrawn.
PERM / Labor Certification	<p>PERM compliance file including:</p> <ul style="list-style-type: none">● Applications received● PERM application (ETA Form 9089)● Prevailing Wage determination● Recruitment summary● Copies of all recruitment conducted and notices <p>Where? Electronic or paper</p>	Five years from the date of the PERM application filing

*This material is not intended to substitute as legal advice.

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Type of Documents	Documents to Keep & Where	Retention Period
Employment-Based Nonimmigrant Visa Petition (such as H-1B, O-1, L-1, TN, and other work visas)	Full copy of the filed petition & Approval Notice Where? Electronic or paper at employer’s principal place of business or work location	For as long as the petition is valid and beyond the employee’s termination date according to company policy.
Employment-Based Immigrant Visa Petition (I-140)	Full copy of petition & Approval Notice Where? Electronic or paper at employer’s principal place of business or work location	Best to keep until the employee obtains legal permanent residence (“green card”) or beyond the employee’s termination date, according to company policy.
Form I-9, Employment Eligibility Verification	Properly Completed Form I-9 and copies of supporting documents Where? Paper, electronic, Microfilm, Microfiche On-site or off-site, as long as able to retrieve and present within three days of an audit request. Electronic systems must comply with DHS’s requirements	Three years from the date of hire or one year after the date of employment termination, whichever is longer

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<p>If employer enrolled in E-Verify</p>	<p>Retain copy (front and back) of the following documents, as applicable:</p> <ul style="list-style-type: none"> -U.S. passport -U.S. passport card -Permanent Resident card -Employment Authorization Document (EAD) <p>Retain the E-Verify case verification number for each corresponding Form I-9</p> <p>Retain the Historic Records Report with the corresponding Forms I-9</p> <p>Where? Paper, electronic, Microfilm, Microfiche</p> <p>On-site or off-site, as long as able to retrieve and present within three days of an audit request.</p> <p>Electronic systems must comply with DHS's requirements.</p> <p>Copies of documents presented by the employee and E-Verify documentation can be stored with the employee's I-9 records</p>	<p>Three years from the date of hire or one year after the date of employment termination, whichever is longer</p>
<p>Foreign Workers' Family Immigration Documents</p>	<p>Employers are not required to keep the foreign worker's family paperwork</p> <p>It is up to the worker and his/her family to maintain the family's immigration documents</p>	<p>N/A</p>

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