

eBOOK

NO MATCH LETTER

A Comprehensive Guide and Checklist



No Match Letter – Safe Harbor Procedure

If an employer follows the steps in this eBook as outlined by the U.S. Department of Homeland Security's (DHS) Safe-Harbor Procedure after receiving a **no-match letter**, an employer will avoid the risk that DHS will charge the employer with an I-9 (Employee Eligibility Verification) violation for having constructive knowledge that an employee was not authorized to work in the United States.

No Match Letter – Safe Harbor Procedure

Please note that there is a 2-prong approach depending on whether the letter comes from the [Social Security Administration](#) office or the [U.S. Department of Homeland Security](#)



Follow **Step 1, 2** and **3**



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No Match Letter – Safe Harbor Procedure

If the letter comes from the



Follow **Step 1, 2** and **3**

Step 1: Letter From Social Security Administration

Check your records immediately to see whether the discrepancy was caused by a typographical, transcription, or similar clerical error in the employer's records or in the employer's communication to the SSA

1

2

If there are no typographical, transcription, or similar clerical errors, promptly move on to **Step 2**, because if the employee confirms that the records are incorrect, the deadline to correct them is **30 days** from receipt of the no-match letter. **Step 2** should ordinarily be initiated within **5** business days of completing the record review

Step 1: Letter From Social Security Administration

3

If there is a typographical, transcription, or similar clerical error:

- Correct the records
- Inform the SAA
- Verify with the SSA that the discrepancy has been resolved
- Make a record of the manner, date, and time of the verification (this includes documentation of telephone conversations, correspondence, computer-generated printouts, e-mails, and Social Security Number Verification System screen shots), and
- Store the record with the employee's Form I-9. Take these steps within **30 days** of receipt of the no-match letter

You have now
completed
the record review
process

Step 2: Letter From Social Security Administration

3

If the employee confirms that the records are **ARE** correct:

- Ask the employee to pursue the matter personally with the relevant agency within 90 days of receipt of the no-match letter

Be sure to give the employee the date by which this must happen

Steps the employee may take:

- Visit a local SSA office and bring original documents or certified copies required by SSA, such as documents that prove age, identify, citizenship or alien status, and other relevant documents, such as proof of a name change, or
- Mail these documents or certified copies to the SSA office, if permitted by the SSA
- Take the following steps to verify the information with the SSA:
 - Verify with the SSA that the employee's name matches the number assigned to that name in the SSA's records.
 - Make a record of the manner, date, and time of any such verification, as the SSA may not provide any documentation. (This includes documentation of telephone conversations, correspondence, computer-generated printouts, e-mails, and Social Security Number Verification System screen shots)

Store the record with the employee's Form I-9

If the discrepancy is not resolved within **90 days**, move to **Step 3**

Step 2: Letter From Social Security Administration

1

Promptly (ordinarily within **5 days** of completing the record review) request that the employee confirm that the employer's records are correct

2

If the employee confirms that the records are **NOT** correct:

- Take the actions needed to correct them
- Inform the SAA
- Verify with the SSA that the discrepancy has been resolved
- Make a record of the manner, date, and time of the verification (this includes documentation of telephone conversations, correspondence, computer-generated printouts, e-mails, and Social Security Number Verification System screen shots), and
- Store the record with the employee's Form I-9. Take these steps within **30 days** of receipt of the no-match letter

Step 3: Letter From Social Security Administration

If the discrepancy is **not** resolved within **90 days** of receipt of the no-match letter, attempt to verify the employee's identity and work authorization by completing a new Form I-9 using the same procedures as if the employee was newly hired **within 93 days** of receiving the no-match letter.

1

REMEMBER:

- No document containing the SSN or alien number that is the subject of the no-match letter, and no receipt for an application for a replacement of such a document, may be used to establish employment authorization or identity or both
- The document used to establish identity (or both identity and employment authorization) must have a photograph
- As long as the procedure outlined above is completed and the employee is verified, then even if the employee is in fact not authorized to work in the United States, the employer will not be held to have constructive knowledge of that fact based on receipt of the no-match letter
- Employers that for some other reason have actual or constructive knowledge that an employee is an alien not authorized to work in the United States do not qualify for the safe harbor
- Employers should apply these procedures uniformly to all employees having unresolved no-match indicators without regard to perceived national origin or citizenship status to avoid violating antidiscrimination laws
- If the discrepancy referred to in the no-match letter is not resolved, and if the employee's identity and work authorization cannot be verified using a reasonable verification procedure, take action to terminate the employee. Otherwise, an employer risks the DHS finding that the employer had constructive knowledge that the employee was an unauthorized alien in violation of INA Section 274A(a)(2), 8 U.S.C. 1324a(a)(2)

No Match Letter – Safe Harbor Procedure

If the letter comes from the



Follow **Step 1** and **3**

Step 1: Letter From Department of Homeland Security

Contact the DHS and attempt to resolve a discrepancy within **30 days**

1

2

Verify with the DHS that the employee's name matches the number assigned to that name in the DHS records, or verify the authorization with the DHS that DHS records indicate that the immigration status document or employment authorization document was, indeed, assigned to the employee

Verify with the DHS that the discrepancy has been resolved

3

Step 1: Letter From Department of Homeland Security

4

- Make a record of the manner, date, and time of the verification (this includes documentation of telephone conversations, correspondence, computer-generated printouts, e-mails, etc.), *and*
- Store the record with the employee's Form I-9. You have now completed the process

If the discrepancy is still not resolved, move on to **Step 3** on previous page

Step 3: Letter Department of Homeland Security

If the discrepancy is **not** resolved within **90 days** of receipt of the no-match letter, attempt to verify the employee's identity and work authorization by completing a new Form I-9 using the same procedures as if the employee was newly hired **within 93 days** of receiving the no-match letter.

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