I-9 Issues: Document Retention

The I-9 rules are federal, so they don't vary by state. There is no requirement that you keep copies of the identification documents with the form.  Each employer decides whether they want to retain copies or not.  We advise not keeping them, but it is a business decision, not a legal one, in the end.

Here are some pros and cons to keeping copies.

**Pros**

* Can give you a good faith defense in audits
* Can turn substantive violations to technical violations, which carry lower fines.
* May make it possible to make corrections if you do a self audit and find issues.

**Cons**

* Copies can be used against you if docs forged or fake
* Additional administrative work to copy and file with I-9s
* If you are not consistent with copies for all employees, may give rise to discrimination claim.

Note, however, that if you use E-verify, you **must**maintain copies of the documents.