

Internal Audit Report

Form I-9 and Employment Compliance

September 2019

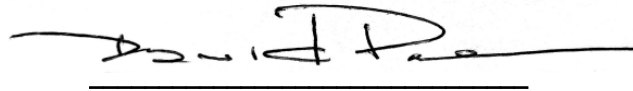
Distribution – Form I-9 and Employment Compliance

To: Vistasp Karbhari *President, UTA*
Randal Rose *Audit Committee Chairman, Managing Director, JP Morgan Private Bank*

Audit Committee:

Shelby Boseman *Chief Legal Officer, UTA*
Bill Carroll *Professor of Computer Science and Engineering, UTA*
Kelly Davis *Chief Financial Officer and Vice President, UTA*
Harry Dombroski *Dean, College of Business, UTA*
Stephen Frimpong *Vice President, Internal Audit, Kimberly-Clark Corporation*
Brian Gutierrez *Vice Chancellor for Finance and Administration, Texas Christian University*
John Hall *Vice President for Administration and Campus Operations, UTA*
Teik Lim *Provost and Vice President for Academic Affairs, UTA*
Jairo Orea *Chief Information Security Officer, Kimberly-Clark Corporation*

From: David Price *Chief Audit Executive, UTA*



A handwritten signature in black ink, appearing to read 'David Price', is positioned above a solid black horizontal line.

cc: Jean Hood *Vice President for Human Resources, UTA*
Jennifer Chapman *Compliance and Ethics Officer, University Compliance Services, UTA*
Lisa Beethe *Director for Human Resources Services, UTA*

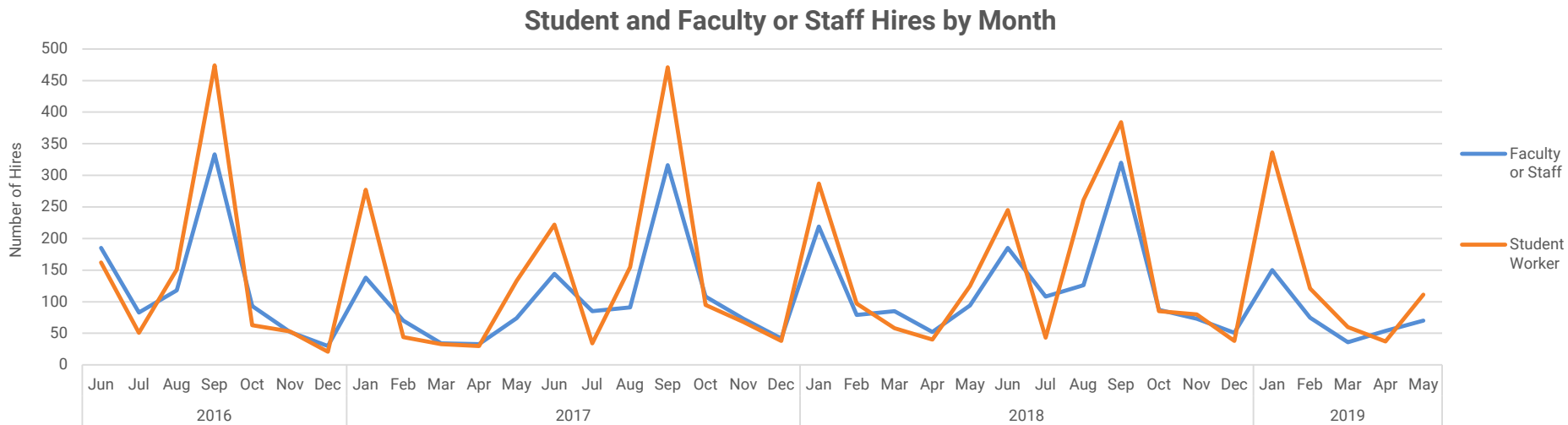
Auditor in Charge:
Nick Pappas *Senior Auditor II, UTA*

Background

The enactment of the Immigration Reform and Control Act requires employers to verify the identity and employment eligibility of their employees hired after November 6, 1986, and created criminal and civil sanctions for employment related violations. The purpose of the employer sanctions law is to remove the incentive for individuals to reside in the United States illegally by requiring employers to hire only individuals who may legally work in the U.S. This includes U.S. citizens, noncitizen nationals, lawful permanent residents, and aliens authorized to work.

To comply with the law, The University of Texas at Arlington (UTA) is required to verify the identity and eligibility of all employees at the time of hire by completing an Employment Eligibility Verification Form I-9 (Form I-9). UTA must also retain the form and make it available for inspection at any time. To knowingly hire or continue to employ an unauthorized alien can result in monetary penalties ranging from \$275 to \$22,927 per violation, with repeat offenders receiving penalties at the higher end. Penalties for substantive violations, which includes failing to produce a Form I-9, range from \$100 to \$2,292 per violation.

The Office of Human Resources (HR) is responsible for the processing, maintenance, compliance, and retention of UTA's employment and personal records. In the three year period from June 2016 through May 2019, HR processed 8,494 employee hires ranging from 51 to 807 hires a month (an average of 249 hires per month). See the graph below for a breakdown by student workers and faculty or staff hires.



Background – Continued

The following regulations and policies were the basis for testing:

- Code of Federal Regulations Title 8 Part 274a.2: Verification of Identity and Employment Authorization;
- U.S. Citizenship and Immigration Services Handbook for Employers M-274;
- U.S. Immigration and Customs Enforcement Guidance for Employers Conducting Internal Employment Eligibility Verification Form I-9 Audits;
- UTA Policy GA-LA-PR2: Records and Information Management; and
- University Compliance Services Policies and Procedures Manual.

Audit Objective, Scope & Ranking Criteria

Audit Objective

Overall, the audit objective was to determine whether the Form I-9 and employment verification processes were operating in an efficient and effective manner. As part of this objective, we also determined whether:





- current employees properly completed required Form I-9 documentation on a timely basis;
- HR verified the employee's identification and evidence of employment authorization as required and on a timely basis;
- HR properly performed the reverification process in cases where the employment authorization on file had expired;
- monitoring procedures were in place to help ensure compliance with federal requirements; and
- Form I-9 documentation was properly maintained and access was limited to authorized users.

Audit Scope

The scope of the audit included all current and terminated employees within the Form I-9 retention period as of June 18, 2019. Audit methodology included interviewing key personnel, reviewing processes, and performing testing of supporting documentation.

Ranking Criteria

All findings in this report are ranked based on an assessment of applicable qualitative, operational control and quantitative risk factors, as well as the probability of a negative outcome occurring if the risk is not adequately mitigated. The criteria for these rankings are as follows:

	Priority	An issue identified by an internal audit that, if not addressed on a timely basis, could directly impact achievement of a strategic or important operational objective of UTA or the UT System as a whole.
	High	A finding identified by an internal audit that is considered to have a medium to high probability of adverse effects to UTA either as a whole or to a significant college/school/unit level.
	Medium	A finding identified by an internal audit that is considered to have a low to medium probability of adverse effects to UTA either as a whole or to a college/school/unit level.
	Low	A finding identified by an internal audit that is considered to have minimal probability of adverse effects to UTA either as a whole or to a college/school/unit level.




None of the findings from this review are deemed as a "Priority" finding.

Executive Summary – Form I-9 and Employment Compliance

In our prior audit titled *Form I-9, Employment Eligibility Verification Compliance Review*, issued June 28, 2016, we noted that 42 percent of Form I-9 documents were missing or contained incomplete information. Pursuant to our approved annual plan, we completed an audit of Form I-9 and Employment Compliance and determined UTA has not taken sufficient action to improve compliance with Form I-9 requirements.

The frequency of exceptions has decreased since the prior audit; however, the overall error rate of 35 percent is still considered high. Additionally, we noted other areas where improvements could be made to increase compliance and security over Form I-9 documents.

Further details are outlined in the *Observation* section. Other less significant opportunities for improvement were communicated to management separately.

6 Observations	 High	2
	 Medium	4
	 Low	0

We appreciate the courtesy and cooperation received from the Office of Human Resources throughout this audit.

Observation 1 – Human Resources did not consistently ensure employees’ Form I-9 documents were completed and verified on a timely basis

High

Federal regulations require that an entity that hires an individual for employment must ensure that the individual properly completes Section 1 on the Form I-9 and signs the attestation on or before their first day of employment. If any errors are found, the employee must make the necessary corrections and initial and date them. The individual must also present original documentation which establishes both employment authorization and identity. Within three business days of the hire, the employer must examine the documentation, ensure that it appears to be genuine and relates to the individual, and then sign the attestation. It is not necessary to make copies of the documents presented by the employee. However, if an employer chooses to do it for some employees, it must do it for all employees.

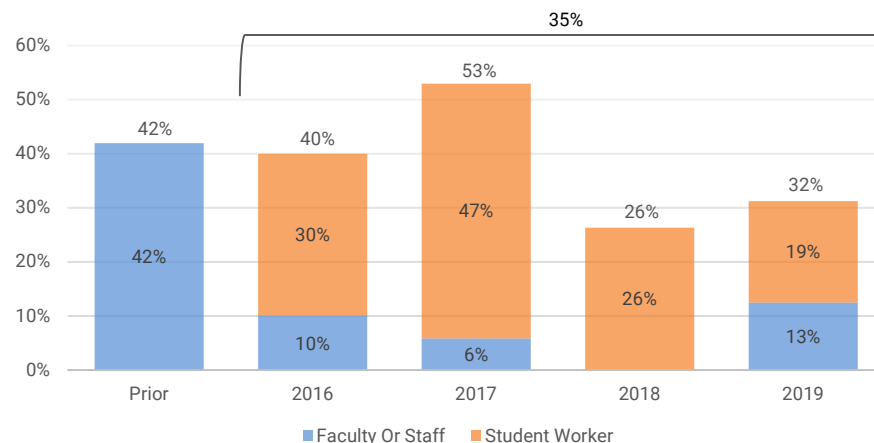
As of June 18, 2019, UTA had 7,225 current employees and 5,074 terminated employees who were within the retention period for a Form I-9. Our review of Form I-9 and related documentation for 94 employees hired between 2016 and 2019 disclosed they were not consistently completed in compliance with Federal regulations.

Section 1 Compliance

Of the 94 employees examined, 33 employees (35 percent) did not complete Section 1 of the Form I-9 on or before their first day of employment. For those hired in 2015 or earlier (prior audit scope), 42 percent had not signed their Form I-9 on or before their first day. See the chart for a breakdown of the errors by academic year.

Interestingly, 44 percent of student workers who were hired during the period 2016 through 2019 did not sign and date their Form I-9 on or before their first day of employment. During the same period, 22 percent of faculty and staff did not sign their Form I-9 on a timely basis.

Percentage Of Employees That Did Not Sign And Date Form I-9 On A Timely Basis



Observation 1 – Human Resources did not consistently ensure employees’ Form I-9 documents were completed and verified on a timely basis (Continued)

High

Section 2 Compliance

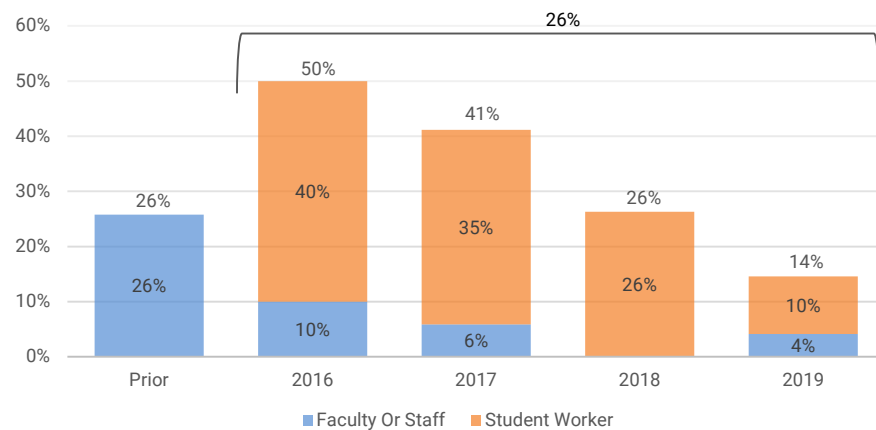
For 24 employees (26 percent) in our sample, HR did not examine the documentation presented by the individual and sign the attestation within three business days of the hire. For those hired in 2015 or earlier (prior audit scope), 26 percent had not been examined and signed by HR within three business days. See the chart for a breakdown of the errors by academic year.

On 7 forms (7 percent) examined, errors were identified in Section 1 that remained uncorrected. Errors mostly related to the work authorization expiration date field being left blank or not agreeing to work authorization documentation.

For one form, while there were no obvious errors identified in Section 1, HR did not maintain copies of documentation presented by the employee and therefore, we were unable to verify the information in Sections 1 and 2. There was a page attached that stated that when this employee was hired, HR had suspended making copies of documents presented for I-9 verification as it was going to be their new practice; however, they began making copies again 15 days later. Our analysis of UT Share records identified 37 employees hired during this time. HR management indicated this was a measure to increase compliance; however, it ended up being more difficult to verify all documentation during the paper work session. Therefore, HR decided to resume making copies.

For the Form I-9 documentation where either Section 1 or Section 2 was not completed timely, we also noted that the start date listed in Section 2 for 19 of the employees did not agree with the employees’ actual start date listed in UT Share. HR management indicated that this date is usually provided by the new employee and completed during the paperwork session.

Percentage Of I-9 Documentation That Human Resources Did Not Sign Off On A Timely Basis



Observation 1 – Human Resources did not consistently ensure employees’ Form I-9 documents were completed and verified on a timely basis (Continued)

Without timely completion of the Form I-9 by the employee and verification by the employer, UTA is not in compliance with Federal regulations and could be subject to penalties for each individual where a violation occurred ranging from \$100 to \$2,292, depending on the employee’s hire date. Additionally, there is an increased risk that UTA could employ an individual who is not authorized to work in the United States.

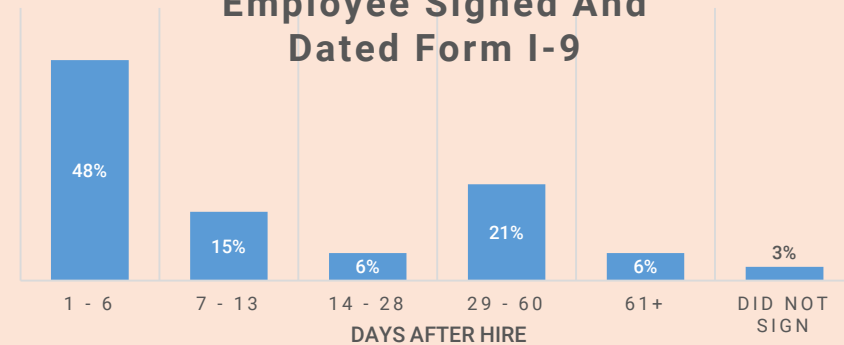
Recommendation:

We recommend that HR develop and implement a process to obtain a listing of new employees starting each day and determine whether they completed the Form I-9. Likewise, HR should also obtain a daily listing of employees hired within the last three days and determine whether Section 2 of the Form I-9 has been completed and their documentation has been verified. HR should notify the employee and the hiring department for those employees who are not in compliance and advise that the employee cannot start or continue work until the Form I-9 is completed. Incidents of noncompliance with this policy should be communicated to the appropriate dean or vice president.

Time To Complete

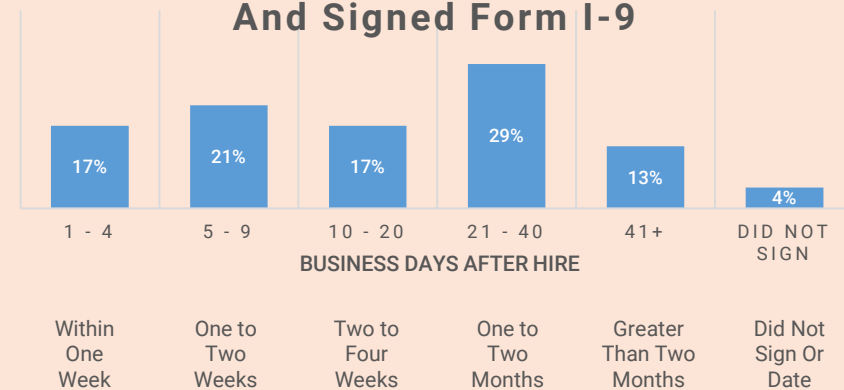
For those employees that did not sign and date their Form I-9 on or before their first day, they signed them between 1 and 75 days after their hire date (an average of 17 days), and 48 percent of new employees signed during their first week of employment.

Employee Signed And Dated Form I-9



When the Section 2 sign off was late, it was signed off between 4 and 53 business days after the employee’s hire date (an average of 18 days). Over 40 percent of the forms were not signed by HR until one or more months after the hire date.

Human Resources Reviewed And Signed Form I-9



Observation 1 – Human Resources did not consistently ensure employees' Form I-9 were completed and verified on a timely basis (Continued)

Management Response:

Human Resources concurs with the observation. HR will implement a process to allow accurate New Employee reports to be produced daily. This will require that all hiring documents be completed and received by the Office of Human Resources at least five days prior to the first day of employment. Vice Presidents and Deans will be informed of this requirement no later than October 1, 2019. This process will be implemented by November 1, 2019. New Hire Reports will be produced on a daily basis as recommended. Human Resources will also use the same report to identify new employees hired within the last three days and determine whether Section 2 of the Form I-9 has been completed and their documentation has been verified. Human Resources will continue to notify the employing department of employees who are not in compliance. Human Resources will advise the department that the employee is not to start or continue work until this is completed. This may include separation of employment. Human Resources will notify the Dean or VP of the non-compliant department to ensure future compliance. Human Resources is in discussion with the Office of Information Technology to develop a process to automate the on-boarding.

Target Implementation Date: February 1, 2020

Responsible Party: Director for Human Resources Services

Observation 2 – Verification of continued employment eligibility was not consistently completed or completed on a timely basis

Federal regulations require that when an individual's employment authorization expires, the employer is required to reverify that the individual is still authorized to work in the United States. The employer must review documentation presented by the employee that shows continuing employment eligibility. The employer must complete this reverification on the Form I-9 no later than the date the employee's work authorization expires. Reverification is completed by noting the document's identification number and expiration date, if any, on the Form I-9 and signing the attestation in Section 3 of the Form I-9.

As of June 18, 2019, UTA had 112 current and terminated employees who were within the retention period for a Form I-9 who also had a work authorization document expire during their employment. Our review of 16 Form I-9 documents belonging to 15 employees disclosed reverification of employee work authorization documents were not consistently completed in compliance with Federal regulations. Specifically, the following was noted:

- For 6 of 16 expiring work authorizations (38 percent), HR did not reverify their employment authorization or complete Section 3 of the Form I-9. We noted that three of these employees did not receive pay subsequent to the expiration of their work authorization documents.
- The remaining 10 authorizations belonging to 9 employees that were verified disclosed:
 - For 1 of 10 reverifications (10 percent), the document that established continuing employment authorization was not dated prior to the date that the employee's previous employment authorization expired.
 - For 3 of 10 reverifications (30 percent), HR did not examine the documentation presented by the individual and sign the attestation with a handwritten or electronic signature prior to the date that the employee's previous employment authorization expired.

According to HR management, the departments are not updating the termination date in UT Share which adds to the number of employees they need to track down. Without timely reverification of employment eligibility, UTA is not in compliance with Federal regulations and could be subject to penalties for each individual where a violation occurred ranging from \$100 to \$2,292, depending on the employee's hire date. Additionally, there is an increased risk that UTA could continue to employ an individual who is no longer authorized to work in the United States.

Observation 2 – Verification of continued employment eligibility was not consistently completed or completed on a timely basis (Continued)

Recommendation:

We recommend that HR develop and implement a process to obtain a daily listing of employees whose employment authorizations are expiring and determine whether their documentation has been verified and their Form I-9 has been updated. HR should notify the employee and the hiring department for those employees who are not in compliance and reiterate that the employee is not allowed to continue working until their work authorization has been reverified and Section 3 of the Form I-9 has been completed. Incidents of noncompliance with this policy should be communicated to the appropriate dean or vice president.

Management Response:

Human Resources concurs with the observation. Human Resources will repurpose the existing report to provide more accurate information. This report will be run on a weekly basis. Human Resources will continue to notify the employee and the hiring department for those employees who are not in compliance and reiterate that the employee is not allowed to continue working until their work authorization has been reverified and Section 3 of the Form I-9 has been completed. In addition, we have recently added a dedicated staff member to regularly monitor the reverification process. This employee will be sending reminders on a scheduled basis to those employees with work authorizations set to expire within 30, 60 and 90 day intervals. Human Resources will recommend to Shared Services to develop a process for automated 30, 60, 90 day notices to be generated by People Soft.

Target Implementation Date: February 1, 2020

Responsible Party: Director for Human Resources Services

Observation 3 – Human Resources retained Form I-9 documentation after the retention period had expired

Medium

Federal regulations require that employers retain a Form I-9 for each person hired. This requirement applies from the date of hire, even if the employment ends shortly after the hire date, the hired employee never completes work for pay, or never finishes the Form I-9. Once the individual's employment has terminated, the employer must retain the Form I-9 for three years after the date of hire or one year after the date of termination, whichever is later. UTA policy requires records be destroyed in an appropriate and timely manner when the retention period expires.

Our review of HR procedures related to the destruction of records past their retention period disclosed that all Form I-9 documents are being retained. Additionally, we noted that HR had not developed policies or procedures addressing the retention requirements and had not established a process for identifying and destroying or purging records when the retention period expires. Our analysis of employees who separated from UTA between June 1, 2016 and June 30, 2018 identified 3,670 unique employees who are past the retention period and their records could be destroyed or purged.

HR management indicated that they do not dispose of Form I-9 documentation that are past the retention period due to the lack of available staff and time constraints. HR has focused available resources on the completion of Form I-9 documents. Without destroying and purging Form I-9 documents after they have passed the retention period, UTA is exposed to an increased risk of the theft or unauthorized disclosure of those records.

Recommendation:

HR should work with their Departmental Records Management Contact to develop a procedure for destroying and purging of Form I-9 documents once the retention period has expired. Procedures should specify the frequency or interval for determining the records to be destroyed or deleted, how to document the records destroyed, and the date of destruction. The Departmental Records Management Contact should oversee the process to ensure compliance with the policy.

Observation 3 – Human Resources retained Form I-9 documentation after the retention period had expired (Continued)

Medium

Management Response:

Human Resources concurs with the observation. Human Resources will work with their Departmental Records Management Contact to develop a procedure for destroying and purging of Form I-9 documents once the retention period has expired. These procedures will specify the frequency or interval for determining the records to be destroyed or deleted and how to document the records destroyed and the date of destruction. The HR Director will oversee the process to ensure compliance with the policy. Human Resources has identified a space that can be converted into a secure storage space. We are currently working on the process to have the space converted.

Target Implementation Date: May 1, 2020

Responsible Party: Director for Human Resources Services

Observation 4 – Human Resources did not properly secure confidential Form I-9 documents

Medium

UTA has an obligation to protect sensitive and confidential personally identifiable information (PII) collected or maintained in the regular course of business. Controls should be in place to help ensure access to PII is limited to those individuals who require access for the performance of their job duties and to prevent the unauthorized access or disclosure of PII.

When a new employee is hired, they are to attend a paperwork session with HR within three days of employment and present original documents that attest to their identity and eligibility to work in the United States. At the paperwork session, HR will make copies of the documents and then scan the copies into the Equifax I-9 Management system for retention. The physical copies are then placed in boxes and retained in case the documents are needed later.

Our review of the handing and storage of Form I-9 documentation disclosed access was not adequately controlled to help ensure it was limited to only those individuals who require access for the performance of their job duties. Without proper security over Form I-9 documents, there is an increased risk of unauthorized access, use, and disclosure of employee PII which can result in financial and reputation loss, as well as, civil and criminal penalties.

Recommendation:

HR should destroy all paper copies of Form I-9 documents in accordance with UTA's Records and Information Management policy for destroying confidential records. Additionally, we recommend HR evaluate the need to make copies of documentation as opposed to scanning it directly into the system and update processes accordingly.

Management Response:

Human Resources concurs with the observation. HR will review the UTA Records and Information Management policy to determine the appropriate method for destroying the records. Moving forward, HR will ensure that confidential I-9 documentation is destroyed in accordance with the policy. Additionally, HR will evaluate the need to make copies of documentation as opposed to scanning it directly into the system and update processes accordingly. Human Resources has identified a space that can be converted into a secure storage space. As mentioned in the previous response, we are currently working on the process to have the space converted.

Target Implementation Date: May 1, 2020

Responsible Party: Director for Human Resources Services

Observation 5 – Human Resources did not complete or implement a Monitoring and Specialized Training Plan on a timely basis

Medium

University Compliance Services Policies and Procedures Manual requires a Monitoring and Specialized Training Plan (Plan) for each high-risk compliance area identified. University Compliance Services provides a Plan template to the responsible party and personnel to assist in the development of the Plan. Once University Compliance Services receives the completed Plan, the Executive Director reviews the operating, monitoring, and oversight controls listed to ensure that they are adequate to mitigate the high-risk item. They also review the other attributes of the Plan to ensure they are sufficient. If necessary, the Executive Director will meet with the high-risk responsible party so that any necessary changes can be made.

In October 2018, University Compliance Services contacted HR stating that Form I-9 compliance was identified as a high-risk area and requested a Plan be completed and submitted within 16 days. University Compliance Services continued to follow-up with HR regarding the completion of the Plan; however, a plan was not completed until June 2019. Our review of the Plan and related documentation demonstrated that portions of the Plan had been implemented; although, most of these processes were already in place before the completion of the Plan.

HR management indicated that the prior Director was working on the plan in 2018 but did not know why it wasn't completed. Additionally, when they completed the Plan, they included their current controls, as well as new controls to demonstrate how they would address each area of the Plan. The completion and implementation of a Plan reduces the risk of noncompliance with Federal regulations and demonstrates UTA's commitment to maintain compliance.

Recommendation:

We recommend HR continue to work on implementing all portions of the Plan, comply with related inspections, and submit timely quarterly reports to University Compliance Services.

Management Response:

Human Resources concurs with the observation. HR will continue to work on implementing all portions of the existing plan, comply with related inspections, and submit timely quarterly reports to University Compliance Services.

Target Implementation Date: November 1, 2019

Responsible Party: Director for Human Resources Services

Observation 6 – Human Resources did not consistently correct missing and incomplete Form I-9 documents and did not properly document corrective actions taken

The U.S. Immigration and Customs Enforcement (USICE) within the Department of Homeland Security provides guidance on conducting internal employment eligibility verification Form I-9 audits. This guidance states that if an employer discovers an error or an omission in Section 1 of the employees' Form I-9, the employer should ask the employee to correct the error. Additionally, if the employee is no longer working for the employer, the employer should attach to the existing form a signed and dated statement identifying the error omission and explain why corrections cannot be made.

If a Form I-9 was never completed or is missing, the current version of the Form I-9 should be completed as soon as possible. If an original Form I-9 exists but either Section 1 or Section 2 was not completed, the employee (for Section 1) or the employer (for Section 2) should complete the section as soon as possible. In both scenarios, the employer should not backdate the form, but should clearly state the actual date employment began in the certification portion of Section 2. The employer should attach a signed and dated explanation of the corrective action taken.

As part of management's corrective action plan for Internal Audit's previous Form I-9 audit (*Form I-9, Employment Eligibility Verification Compliance Review*, issued June 28, 2016), HR was to review all current employees' Form I-9 documentation to identify and correct records that were out of compliance. Our examination of these corrective actions disclosed the following:

- HR management stated that the review concluded at the end of 2016; however, documentation supporting the completion and the results of the review could not be provided.
- HR provided documentation indicating there were 116 of 7,701 active employees' Form I-9 documentation remaining to complete or correct as of November 18, 2016. Our review of three of these employees' Form I-9 documentation disclosed one form had been corrected as a result of the review, one form which needed to be dated by the employee had remained uncorrected, and one form appeared to be correct prior to HR's review. A signed and dated explanation of the corrective action taken was not included with the Form I-9 records.

Observation 6 – Human Resources did not consistently correct missing and incomplete Form I-9 documents and did not properly document corrective actions taken (Continued)

- Our review of Form I-9 documentation for 30 employees hired in 2015 or earlier (prior audit scope) noted that five of the forms that were not signed on a timely basis appeared to have been completed as a result of HR's review. However, we noted three other forms that remained uncorrected. A signed and dated explanation of the corrective action taken was also not included with these Form I-9 records.

HR management stated that the 2016 review was such a large undertaking that their primary focus was completing and correcting the Form I-9 rather than ensuring a signed and dated explanation was attached to each corrected record. However, we noted that HR had not developed policies or procedures addressing how to properly correct missing and incomplete Form I-9 documentation. Documenting corrective actions taken as a result of internal reviews can lessen the penalties related to noncompliance when discovered in a federal audit.

Recommendation:

We recommend that HR update policies and procedures to address correction of Form I-9 documents. We also recommend that HR document actions taken to correct and complete Form I-9 documents consistent with USICE guidance.

Management Response:

Human Resources concurs with the observation. HR will update policies and procedures to address corrections of Form I-9 documents. HR will also produce a standardized system to document any actions taken to correct and complete Form I-9. These documents will be consistent with USICE guidance.

Target Implementation Date: February 1, 2020

Responsible Party: Director for Human Resources Services