



STATE OF TENNESSEE
DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT
DIVISION OF WORKFORCE DEVELOPMENT
220 French Landing Drive
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(615) 741-1031

December 18, 2007

Workforce Investment Act Memorandum Number WD 07-37

- Topic:** Changes to the immigration Form I-9 for undocumented and documented workers
- Subject:** Form I-9 used to assist employers in hiring Workforce Investment Act (WIA) participants
- Purpose:** To ensure that WIA participants, referred to employers, have the proper work authorization documents before the referral process takes place.
- Background:** U.S. Citizenship and Immigration Services is issuing the attached notice to introduce the recently amended Form I-9 for "Employment Eligibility Verification." Employers are required to use Form I-9 to verify the identity and employment authorization of newly-hired employees. This new updated Form I-9 contains a list of acceptable identity and employment authorization documents that reflect current regulations.
- Instructions:** As of November 7, 2007, the amended Form I-9 is the only valid version used for identity and employment verification for employment purposes (see attachment). To ensure that WIA program participants referred to employers (for employment) purposes have valid identification, it is important that your Local Workforce Investment Area (LWIA) uses the updated list "A" documents.

The amended Form I-9 requires four types of acceptable List A documents: 1) a U.S. passport (unexpired or expired); 2) a Permanent Resident Card or Alien Resident Card (Form-551); 3) an unexpired foreign passport with a temporary I-551 stamp; 4) an unexpired Employment Authorization Document that contains a photograph in addition to the one used for List A.

Also, the List A document, titled "an unexpired foreign passport with an attached Form I-94 indicating unexpired employment authorization," has been replaced by "an unexpired Arrival and Departure record, Form I-94." This I-94 bears the same name as the passport containing an endorsement of the alien's non-immigration status (if that status authorizes the alien for employment).

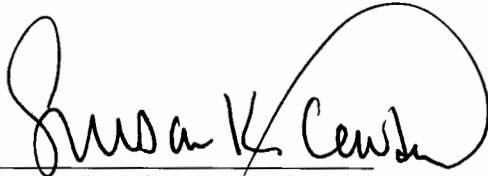
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We ask that your LWIA use the attached extensive instructions and information on this subject (see Federal Register Vol. 72, No. 226). Please read the instructions carefully and pass them to staff directly dealing with participants needing to be informed that they must have legal documents for employment.

Contact: For questions regarding this policy, please contact Susan Cowden, Administrator, Workforce Development Division, at 741-1031 or 1-800-255-5872.

Effective Date: Immediately

Expiration Date: Indefinite

A handwritten signature in black ink, appearing to read "Susan K. Cowden". The signature is fluid and cursive, with a large loop at the end of the last name.

Susan Cowden, Administrator
Division of Workforce Development

SC:RT:RK

correspondence received from individuals, employers, and their designated representatives to: (1) Assist individuals and employers in resolving problems during interactions with U.S. Citizenship and Immigration Services (USCIS); (2) identify areas in which individuals and employers have problems in dealing with USCIS; and (3) and to the extent possible, propose changes to mitigate problems as mandated by the Homeland Security Act of 2002, Section 452.

Scott Charbo,

Chief Information Officer.

[FR Doc. E7-22856 Filed 11-21-07; 8:45 am]

BILLING CODE 4410-10-P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2419-07; DHS Docket No.: USCIS-2007-0044]

RIN 1615-ZA57

Introduction of the Amended Form I-9 and the New Handbook for Employers

AGENCY: U.S. Citizenship and Immigration Services, DHS.

ACTION: Notice.

SUMMARY: U.S. Citizenship and Immigration Services is issuing this Notice to introduce the newly amended Form I-9, "Employment Eligibility Verification." Employers are required to use the Form I-9 to verify the identity and employment authorization of newly hired employees. The amended Form I-9 contains an updated list of acceptable identity and employment authorization documents that reflect the current regulations. As of November 7, 2007, the amended Form I-9 is the only valid version of the form. The Department of Homeland Security will not seek penalties against an employer for using a previous version of the Form I-9 on or before December 26, 2007.

DATES: This Notice is effective November 26, 2007.

FOR FURTHER INFORMATION CONTACT: Gregory Francis, Department of Homeland Security, U.S. Citizenship and Immigration Services, Verification Division, 470-490 L'Enfant Plaza East, SW., Suite 8206, Washington, DC 20024; E-mail: employer_pilots@dhs.gov; Telephone: 1-888-464-4218.

SUPPLEMENTARY INFORMATION:

I. Background

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996

(IIRIRA), Public Law 104-208, 110 Stat. 3009 (Sept. 30, 1996), amended the Immigration and Nationality Act (INA) to reduce the number of documents that an employer may accept from newly hired employees when verifying their identity and employment eligibility (i.e., authorization) as required by law. IIRIRA section 412(a) (amending INA sec. 274A(b)(1), 8 U.S.C. 1324a(b)(1)). On September 30, 1997, the Immigration and Naturalization Service (INS) published an interim rule, "Interim Designation of Acceptable Documents for Employment Verification," implementing those amendments. See 62 FR 51001. However, INS did not concurrently amend the Form I-9, "Employment Eligibility Verification," that employers must use to conduct the required verification to reflect the changes made by the interim rule. As a result, the Form I-9 (Rev. 05-31-05) contained an outdated list of acceptable documents.

In the SUPPLEMENTARY INFORMATION accompanying the 1997 interim rule, the INS stated that it planned to issue a new Form I-9 in the context of a broader final rulemaking. While U.S. Citizenship and Immigration Services (USCIS), which now maintains the Form I-9, still intends to pursue a broader rulemaking, given the long passage of time since the interim rule, allowing an outdated Form I-9 to remain in use has become untenable. Therefore, USCIS has amended the Form I-9 document list to be consistent with the regulations. On November 7, 2007, USCIS posted the amended Form I-9 on its Web site, at <http://www.uscis.gov>. The amended Form I-9 has a revision date of June 5, 2007, which is printed as "(Rev. 06/05/07)N" on the lower right corner of the form. As of November 7, 2007, this is the only valid version of the form.

This Notice introduces the newly amended Form I-9 (Rev. 06/05/07)N and instructs employers on its use.

II. Changes to Form I-9

A. List A—Revised

Because the 1997 interim rule was limited to Form I-9 List A documents, the amended Form I-9 reflects changes to the documents listed under List A only. List A documents are those that evidence both an individual's identity and employment eligibility. The amended Form I-9 no longer lists the following as List A documents: (1) The Certificate of United States Citizenship (Form N-560 or N-561); (2) the Certificate of Naturalization (Form N-550 or N-570); (3) the Form I-151, a long out-of-date version of the Alien Registration Receipt Card ("green

card"); (4) the Unexpired Reentry Permit (Form I-327); and (5) the Unexpired Refugee Travel Document (Form I-571).

The amended Form I-9 retains four types of acceptable List A documents: (1) The U.S. Passport (unexpired or expired); (2) the Permanent Resident Card or Alien Registration Receipt Card (Form I-551); (3) an unexpired foreign passport with a temporary I-551 stamp; and (4) an unexpired Employment Authorization Document that contains a photograph (Form I-766, I-688, I-688A, I-688B). All of these acceptable List A documents were carried over from the previous Form I-9, with the exception of the Form I-766, which is a new addition to List A. The amended Form I-9 also modifies one acceptable List A document. The List A document entitled, "unexpired foreign passport with an attached Form I-94 indicating unexpired employment authorization," has been replaced by "an unexpired foreign passport with an unexpired Arrival-Departure Record, Form I-94, bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, if that status authorizes the alien to work for the employer."

USCIS also has amended the order and organization of List A to track the regulations more directly. For example, the various Employment Authorization Documents are listed together as one category, and the unexpired foreign passport with temporary I-551 stamp is a separate entry from the unexpired passport with Form I-94 indicating an employer-specific work-authorized nonimmigrant status.

This updating of List A on the Form I-9 should help streamline the hiring process by providing employers with a better means of conforming their document acceptance practices with the requirements of the law. List A on the newly amended Form I-9 has been the regulatory List A since 1997, and, therefore, employers should not have been accepting documents not included in the regulatory list.

Given the discrepancy between the Form I-9 and the regulations, however, the INS and, subsequently, the Department of Homeland Security (DHS) withheld enforcement of civil money penalties for violations associated with the changes made by the 1997 interim rule as a temporary transitional measure. 62 FR at 51002. With an amended Form I-9 now available that includes the correct List A, that policy is no longer necessary. Therefore, DHS has determined that the non-enforcement policy will cease as of December 26, 2007.

B. Other Changes

The amended Form I-9 now instructs employees that providing their Social Security number in Section 1 of the form is voluntary, pursuant to section 7 of the Privacy Act (5 U.S.C. 552a note). However, employees must provide their Social Security number in section 1 of the form if their employer participates in E-Verify (the employment eligibility verification program formerly known as Basic Pilot or EEV), as provided by section 403(a)(1)(A) of IIRIRA. Moreover, for employees who present their Social Security account number card to their employer as evidence that they are authorized to work in the United States, the employer must record the Social Security Account number in section 2 of the Form I-9.

The amended Form I-9 also includes various nonsubstantive changes to the organization and content of the form instructions to be more consistent with standard USCIS branding practices, such as including a clarification that there is no filing fee associated with the Form I-9.

III. Use of the Amended Form I-9

As of November 7, 2007, the Form I-9 (Rev. 06/05/07)N is the only version of the form that is valid for use. DHS recognizes that employers should be afforded a period of time to transition to the amended Form I-9. Therefore, DHS will not seek penalties against an

employer for using a previous version of the Form I-9 on or before December 26, 2007. After December 26, 2007, employers who fail to use Form I-9 (Rev. 06/05/07)N may be subject to all applicable penalties under section 274A of the INA, 8 U.S.C. 1324a, as enforced by U.S. Immigration and Customs Enforcement (ICE).

Note that employers do not need to complete the amended Form I-9 for current employees for whom there is already a properly completed Form I-9 on file. Indeed, unnecessary verification may violate the INA's anti-discrimination provision, section 274B of the INA, 8 U.S.C. 1324b, which is enforced by the U.S. Department of Justice's Office of Special Counsel for Immigration Related Unfair Employment Practices. However, employers must use Form I-9 (Rev. 06/05/07)N for any reverification of employment authorization conducted on or after December 26, 2007. Reverification is required when the Form I-9 indicates that the employee's work authorization will expire. To reverify, employers must examine acceptable Form I-9 documents evidencing that the employee remains authorized to work. See 8 CFR 274a.2(b)(1)(vii).

IV. Obtaining Forms I-9 (Rev. 06/05/07)N

Employers may access the amended Form I-9 (Rev. 06/05/07)N online at

<http://www.uscis.gov>. In addition, a newly revised "Handbook for Employers, Instructions for Completing the Form I-9, (M-274)" is available online at <http://www.uscis.gov>. Because of its length, the revised M-274 will not be reprinted in the Federal Register. To order USCIS forms, call our toll-free number at 1-800-870-3676. The public can get USCIS forms and information on immigration laws, regulations and procedures by telephoning our National Customer Service Center at 1-800-375-5283.

A Spanish-language version of the amended Form I-9 is available at <http://www.uscis.gov> for use in Puerto Rico only. The Spanish-language Form I-9 (Rev. 06/05/07)N is valid as of November 7, 2007. This updated Spanish-language version of the Form I-9 supersedes all previous versions. Employers in Puerto Rico who continue to use previous editions of the Form I-9 in English or Spanish after December 26, 2007 may be subject to fines and penalties.

Dated: November 16, 2007.

Emilio T. Gonzalez,
Director, U.S. Citizenship and Immigration Services.

Note: The Form I-9 is provided as an attachment to this notice.

BILLING CODE 4410-10-P

Department of Homeland Security
U.S. Citizenship and Immigration Services

**Form I-9, Employment
Eligibility Verification**

Instructions

Please read all instructions carefully before completing this form.

Anti-Discrimination Notice. It is illegal to discriminate against any individual (other than an alien not authorized to work in the U.S.) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents presented have a future expiration date may also constitute illegal discrimination.

What Is the Purpose of This Form?

The purpose of this form is to document that each new employee (both citizen and non-citizen) hired after November 6, 1986 is authorized to work in the United States.

When Should the Form I-9 Be Used?

All employees, citizens and noncitizens, hired after November 6, 1986 and working in the United States must complete a Form I-9.

Filling Out the Form I-9

Section 1, Employee: This part of the form must be completed at the time of hire, which is the actual beginning of employment. Providing the Social Security number is voluntary, except for employees hired by employers participating in the USCIS Electronic Employment Eligibility Verification Program (E-Verify). The employer is responsible for ensuring that Section 1 is timely and properly completed.

Preparer/Translator Certification. The Preparer/Translator Certification must be completed if Section 1 is prepared by a person other than the employee. A preparer/translator may be used only when the employee is unable to complete Section 1 on his/her own. However, the employee must still sign Section 1 personally.

Section 2, Employer: For the purpose of completing this form, the term "employer" means all employers including those recruiters and referrers for a fee who are agricultural associations, agricultural employers or farm labor contractors.

Employers must complete Section 2 by examining evidence of identity and employment eligibility within three (3) business days of the date employment begins. If employees are authorized to work, but are unable to present the required

document(s) within three business days, they must present a receipt for the application of the document(s) within three business days and the actual document(s) within ninety (90) days. However, if employers hire individuals for a duration of less than three business days, Section 2 must be completed at the time employment begins. Employers must record:

1. Document title;
2. Issuing authority;
3. Document number;
4. Expiration date, if any; and
5. The date employment begins.

Employers must sign and date the certification. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. These photocopies may only be used for the verification process and must be retained with the Form I-9. However, employers are still responsible for completing and retaining the Form I-9.

Section 3, Updating and Reverification: Employers must complete Section 3 when updating and/or reverifying the Form I-9. Employers must reverify employment eligibility of their employees on or before the expiration date recorded in Section 1. Employers CANNOT specify which document(s) they will accept from an employee.

- A. If an employee's name has changed at the time this form is being updated/reverified, complete Block A.
- B. If an employee is rehired within three (3) years of the date this form was originally completed and the employee is still eligible to be employed on the same basis as previously indicated on this form (updating), complete Block B and the signature block.
- C. If an employee is rehired within three (3) years of the date this form was originally completed and the employee's work authorization has expired or if a current employee's work authorization is about to expire (reverification), complete Block B and:
 1. Examine any document that reflects that the employee is authorized to work in the U.S. (see List A or C);
 2. Record the document title, document number and expiration date (if any) in Block C, and
 3. Complete the signature block.

What Is the Filing Fee?

There is no associated filing fee for completing the Form I-9. This form is not filed with USCIS or any government agency. The Form I-9 must be retained by the employer and made available for inspection by U.S. Government officials as specified in the Privacy Act Notice below.

USCIS Forms and Information

To order USCIS forms, call our toll-free number at 1-800-870-3676. Individuals can also get USCIS forms and information on immigration laws, regulations and procedures by telephoning our National Customer Service Center at 1-800-375-5283 or visiting our internet website at www.uscis.gov.

Photocopying and Retaining the Form I-9

A blank Form I-9 may be reproduced, provided both sides are copied. The Instructions must be available to all employees completing this form. Employers must retain completed Forms I-9 for three (3) years after the date of hire or one (1) year after the date employment ends, whichever is later.

The Form I-9 may be signed and retained electronically, as authorized in Department of Homeland Security regulations at 8 CFR § 274a.2.

Privacy Act Notice

The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 USC 1324a).

This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States.

This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by officials of U.S. Immigration and Customs Enforcement, Department of Labor and Office of Special Counsel for Immigration Related Unfair Employment Practices.

Submission of the information required in this form is voluntary. However, an individual may not begin employment unless this form is completed, since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.

Paperwork Reduction Act

We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: 1) learning about this form, and completing the form, 9 minutes; 2) assembling and filing (recordkeeping) the form, 3 minutes, for an average of 12 minutes per response. If you have comments regarding the accuracy of this burden estimate, or suggestions for making this form simpler, you can write to: U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529. OMB No. 1615-0047.

Department of Homeland Security
U.S. Citizenship and Immigration Services

Form I-9, Employment Eligibility Verification

Please read instructions carefully before completing this form. The instructions must be available during completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification. To be completed and signed by employee at the time employment begins.

Print Name: Last	First	Middle Initial	Maiden Name
Address (Street Name and Number)		Apt. #	Date of Birth (month/day/year)
City	State	Zip Code	Social Security #

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

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

A citizen or national of the United States

A lawful permanent resident (Alien #) A _____

An alien authorized to work until _____ (Alien # or Admission #)

Employee's Signature _____ Date (month/day/year) _____

Preparer and/or Translator Certification. (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature	Print Name
Address (Street Name and Number, City, State, Zip Code)	
Date (month/day/year)	

Section 2. Employer Review and Verification. To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s).

List A	OR	List B	AND	List C
Document title: _____	OR	_____	_____	_____
Issuing authority: _____		_____	_____	_____
Document #: _____		_____	_____	_____
Expiration Date (if any): _____		_____	_____	_____
Document #: _____		_____	_____	_____
Expiration Date (if any): _____	_____	_____	_____	_____

CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) _____ and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)		Date (month/day/year)

Section 3. Updating and Reverification. To be completed and signed by employer.

A. New Name (if applicable)	B. Date of Rehire (month/day/year) (if applicable)
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C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.

Document Title:	Document #:	Expiration Date (if any):
I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.		
Signature of Employer or Authorized Representative	Date (month/day/year)	

LISTS OF ACCEPTABLE DOCUMENTS

LIST A Documents that Establish Both Identity and Employment Eligibility	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Eligibility
1. U.S. Passport (unexpired or expired)		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		1. U.S. Social Security card issued by the Social Security Administration (other than a card stating it is not valid for employment)
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		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		2. Certification of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350)
3. An unexpired foreign passport with a temporary I-551 stamp		3. School ID card with a photograph		3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
4. An unexpired Employment Authorization Document that contains a photograph (Form I-766, I-688, I-688A, I-688B)		4. Voter's registration card		4. Native American tribal document
		5. U.S. Military card or draft record		5. U.S. Citizen ID Card (Form I-197)
5. An unexpired foreign passport with an unexpired Arrival-Departure Record, Form I-94, bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, if that status authorizes the alien to work for the employer		6. Military dependent's ID card		6. ID Card for use of Resident Citizen in the United States (Form I-179)
		7. U.S. Coast Guard Merchant Mariner Card		7. Unexpired employment authorization document issued by DHS (other than those listed under List A)
		8. Native American tribal document		
		9. Driver's license issued by a Canadian government authority		
	For persons under age 18 who are unable to present a document listed above:			
		10. School record or report card		
		11. Clinic, doctor or hospital record		
		12. Day-care or nursery school record		

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)