December 18, 2007

Workforce Investment Act Memorandum Number WD 07-37

Topic: Changes to the immigration Forms 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 (L.W.I.A) 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titled "an unexpired foreign passport with an attached Form I-94 indicating unexpired employment authorization," has been replaced by "an unexpired Arrival and Departure record, Form I-94."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).
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

[Signature]

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 provided feedback, and to (3) and to the extent possible, propose changes to mitigate problems as mandated by the Homeland Security Act of 2002, Section 452.

Sueisha C.,
Chief Information Officer.
[Redacted]
[Redacted]
[Redacted]

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

U.S.C. No. 243-287; DHS Docket No.: USCIS-
2007-0044

11/17/2015

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, "Employee Eligibility Verification." Employees are required to use the Form I-9 to verify their 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 25, 2007.

DATE: This Notice is Effective

FOR FURTHER INFORMATION CONTACT:

Gregory Francis, Department
of Homeland Security, U.S. Citizenship
and Immigration Services, Verification
Division, 2700 Riverside Plaza, SW,
Suite 2200, Washington, DC 20524;
E-mail: employer.policies@dhs.gov;
Telephone: 1-888-464-4216.

SUPPLEMENTARY INFORMATION:

I. Background

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996

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 also no longer lists the following as List A documents: (1) The Certificate of United States Citizenship (Form N-400 or N-560), (2) the Certificate of Naturalization (Form N-550 or N-555), and (3) a long-out-of-date version of the Alien Registration Receipt Card ("green card"); (4) the Unexpired Identity Card Pursuant to Section 244(a)(3); and (5) the Unexpired Refugee Travel Document (Form I-571). The amended Form I-9 also states 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 15-year expiration; and (4) unexpired Employment Authorization Document (not used to photograph (Form I-766, I-868A, I-868B). 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 now added to List A. The amended Form I-9 also modifies the 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 foreign passport with Form I-94 indicating an employee-specific work-authorization endorsement.

This updating of List A on the Form I-9 should help streamline the hiring process by providing employers with a better understanding of what 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 have already been accepting documents not included in the new version.

Given the discrepancy between the Form I-9 and the requirements, however, the INS and, subsequently, the Department of Homeland Security (DHS) withheld enforcement of civil penalty provisions associated with the changes made by the 1997 interim rule as a temporary transitional measure, its PR at $520.

With an amended Form I-9 now available, the INS believes it has corrected the Form I-9 that policy is no longer necessary. Therefore, DHS has determined that the non-enforcement program will cease as of December 25, 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 EPI), as provided by section 403A(a)(1)(A) of IRDRA.

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 employee must record the Social Security Account number in Section 2 of the Form I-9.

The amended Form I-9 also includes various substantive 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. 06/04/2007) 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 employee for using a previous version of the Form I-9 on or before December 28, 2007. After December 28, 2007, employers who fail to use Form I-9 (Rev. 06/04/2007) may be subject to all applicable penalties under section 274A of the INA, 8 U.S.C. 1254a, as enforced by U.S. Immigration and Customs Enforcement (ICE).

Note that employees 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. 1254b, 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. 06/04/2007) for any re-certification of employment authorization conducted on or after December 28, 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.3(b)(3)(vii).

IV. Obtaining Form I-9 (Rev. 06/04/2007)

Employers may access the amended Form I-9 (Rev. 06/04/2007) online at http://www.uscis.gov. In addition, a newly revised “Handbook for Employers, Instruction Book 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 1-800-377-5283.

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. 06/04/2007) is valid as of November 7, 2007. This updated Spanish-language version of the Form I-9 supersedes all previous versions.

Employees in Puerto Rico who continue to use previous editions of the Form I-9 in English or Spanish after December 28, 2007 may be subject to fines and penalties.


Emilia T. Crouse,
Director, U.S. Citizenship and Immigration Services.

Note: The Form I-4 is provided as an attachment to this notice.

BLIND CODE 415-16-9
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 employees. 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 non-citizens, 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, Employer: 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 employer. A preparer/translator may be used only when the employee is unable to complete Section 1 on his/her own. However, the employer must still sign Section 1 personally.

Section 2, Employer: For the purpose of completing this form, the term "employee" means all employees including those recruits and referrals for a fee who are agricultural workers, 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 sixty (90) days. However, if employees 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. Employers 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. Hereafter, employers are still responsible for completing and retaining the Form I-9.

Section 3, Updating and Reverification: Employers must complete Section 2 when updating and/or revalidating 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 hired 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 hired within three (3) years of the date this form was originally completed and the employer'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 Line A of Block 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 an associated filing fee for completing the Form I-9. This fee 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 1-800-877-5666. 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 may be available to all employees completing this form. Employers must retain completed Form 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


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 staff 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 the 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 burdens for this collection of information are computed as follows: 1) learning about this form, and completing the form, 9 minutes; 2) assembling and filing (recordkeeping) the form, 3 minutes, 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 300, Washington, D.C. 20529. OMB No. 1615-0047.

Employers Must Retain Completed Form I-9

Please do not mail completed Form I-9 to ICE or USCIS
**Form I-9, Employment Eligibility Verification**

**Section A: Employee Information and Certification**

1. **Employee Information**
   - **First Name:**
   - **Last Name:**
   - **Middle Initial:**
   - **Date of Birth:**

2. **Employer Information**
   - **Employer Name:**
   - **Employer Address:**
   - **City:**
   - **State:**
   - **Zip Code:**
   - **Social Security Number:**

3. **Certification**
   - **I certify under penalty of perjury that I have complied in good faith with the requirements of this form:**
   - **Signature:**
   - **Title:**
   - **Date:**

**Section B: Employer Certification and Certification**

1. **Employer Certification**
   - **Employer Name:**
   - **Employer Address:**
   - **Employer Telephone:**
   - **Date:**

2. **Other Certification**
   - **Signature:**
   - **Title:**
   - **Date:**

**Section C: Updating and Reverification**

1. **Employee Information**
   - **First Name:**
   - **Last Name:**
   - **Date of Birth:**
   - **Expiration Date:**

2. **Employer Information**
   - **Employer Name:**
   - **Employer Address:**
   - **Employer Telephone:**
   - **Date:**

3. **Certification**
   - **Signature:**
   - **Title:**
   - **Date:**

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**Table: List A OR List B AND List C**

<table>
<thead>
<tr>
<th>Document Type</th>
<th>Document Number</th>
<th>Expiration Date/Time</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Social Security Card</strong></td>
<td>1234567890</td>
<td>12/31/2023</td>
</tr>
<tr>
<td><strong>Driver's License</strong></td>
<td>1234567890</td>
<td>06/30/2024</td>
</tr>
<tr>
<td><strong>State ID Card</strong></td>
<td>1234567890</td>
<td>07/15/2025</td>
</tr>
</tbody>
</table>

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**List A OR List B AND List C**

- **Document Title:**
- **Issuing Authority:**
- **Expiration Date:**
- **Expiration Date/Time:**

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**List A**

- **Document Title:**
- **Issuing Authority:**
- **Expiration Date:**
- **Expiration Date/Time:**

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**List B**

- **Document Title:**
- **Issuing Authority:**
- **Expiration Date:**
- **Expiration Date/Time:**

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**List C**

- **Document Title:**
- **Issuing Authority:**
- **Expiration Date:**
- **Expiration Date/Time:**
### LISTS OF ACCEPTABLE DOCUMENTS

<table>
<thead>
<tr>
<th>LIST A</th>
<th>Documents that Establish Both Identity and Employment Eligibility</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>OR AND</td>
</tr>
<tr>
<td>1.</td>
<td>U.S. Passport (unexpired or expired)</td>
</tr>
<tr>
<td>2.</td>
<td>Permanent Resident Card or Alien Registration Receipt Card (Form I-551)</td>
</tr>
<tr>
<td>3.</td>
<td>An unexpired foreign passport with a temporary I-551 stamp</td>
</tr>
<tr>
<td>5.</td>
<td>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</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIST B</th>
<th>Documents that Establish Identity</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>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</td>
</tr>
<tr>
<td>2.</td>
<td>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</td>
</tr>
<tr>
<td>3.</td>
<td>School ID card with a photograph</td>
</tr>
<tr>
<td>4.</td>
<td>Voter’s registration card</td>
</tr>
<tr>
<td>5.</td>
<td>U.S. Military card or draft record</td>
</tr>
<tr>
<td>6.</td>
<td>Military dependent’s ID card</td>
</tr>
<tr>
<td>7.</td>
<td>U.S. Coast Guard Merchant Mariner Card</td>
</tr>
<tr>
<td>8.</td>
<td>Native American tribal document</td>
</tr>
<tr>
<td>9.</td>
<td>Driver’s license issued by a Canadian government authority</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>LIST C</th>
<th>Documents that Establish Employment Eligibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>U.S. Social Security card issued by the Social Security Administration (other than a card stating it is not valid for employment)</td>
</tr>
<tr>
<td>2.</td>
<td>Certification of Birth Abroad issued by the Department of State (Form FS-245 or Form DS-1130)</td>
</tr>
<tr>
<td>3.</td>
<td>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</td>
</tr>
<tr>
<td>4.</td>
<td>Native American tribal document</td>
</tr>
<tr>
<td>5.</td>
<td>U.S. Citizen ID Card (Form I-197)</td>
</tr>
<tr>
<td>6.</td>
<td>ID Card for use of Resident Citizens in the United States (Form I-179)</td>
</tr>
<tr>
<td>7.</td>
<td>Unexpired employment authorization document issued by DHS (other than those listed under List A)</td>
</tr>
</tbody>
</table>

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)