

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

[CIS No. 2532-13; DHS Docket No.: USCIS-2006-0068]

Introduction of the Revised Employment Eligibility Verification Form

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

ACTION: Notice.

SUMMARY: U.S. Citizenship and Immigration Services (USCIS) is announcing the newly revised Employment Eligibility Verification form, Form I-9. Employers are required to use the Form I-9 to verify the identity and employment authorization eligibility of their employees. The revisions to Form I-9 contain formatting changes and the inclusion of additional data fields. This notice contains the dates that employers should begin using the newly revised Form I-9 and announces the date that employers can no longer use prior versions of the forms.

DATES: Employment Eligibility Verification form (Form I-9) with a revision date of “(Rev. 03/08/13) N” is available for use beginning [Insert date of publication in the FEDERAL REGISTER]. Prior versions of Form I-9 (Rev. 08/07/09) Y and (Rev. 02/02/2009) N can no longer be used by the public effective [Insert date 60 days from the date of publication in the FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Sharon Ryan, Department of Homeland Security, U.S. Citizenship and Immigration Services, Verification Division, 131 M Street, NE, Suite 200, Washington, DC 20529. For information about the employment eligibility verification process, employers can call the Verification hotline at 888-464-4218 (877-875-6028 for TTY) and employees can call 888-897-7781 (877-875-6028 for TTY) for further information. The public can also e-mail Verification at I-9Central@dhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Employers and certain agricultural recruiters and referrers for a fee (referred to collectively as “employers”) are required to verify on Employment Eligibility Verification form (Form I-9) the employment authorization and identity of each individual they hire (or recruit or refer for a fee if applicable), for employment in the United States.

Form I-9 contains three sections. The purpose of Section 1 of the form is to collect, at the time of hire identifying information about the employee (and preparer or translator if used), and for the employee to attest to whether he or she is a U.S. citizen, noncitizen national, lawful permanent resident, or alien authorized to work in the United States. The employee must also present documentation for review evidencing his or her identity and authorization to engage in this employment. The purpose of Section 2 of the form is to collect, within 3 business days of the employee’s hire, identifying information from the employer and information regarding the identity and employment authorization documentation presented by the employee and reviewed by the employer. The purpose of Section 3 of the form is to collect information regarding the continued employment authorization of the employee. This section, if applicable, is completed at the time that the employee’s employment authorization and/or employment authorization

documentation recorded in either Section 1 or Section 2 of the form expires. This section may also be used if the employee is rehired within 3 years of the date of the initial execution of the form and to record a name change if Section 3 is otherwise completed.

Employers are required to maintain Forms I-9 for as long as an individual works for the employer and for the required retention period for the termination of an individual's employment [either 3 years after the date of hire or 1 year after the date employment ended, whichever is later]. Also, employers are required to make their employees' Forms I-9 available for inspection upon request by officers of U.S. Immigration and Customs Enforcement (ICE), the Department of Justice (DOJ) Office of Special Counsel for Immigration-Related Unfair Employment Practices, and the Department of Labor. Failure of an employer to ensure proper completion and retention of Forms I-9 may subject the employer to civil money penalties, and, in some cases, criminal penalties.

On March 27, 2012, USCIS published a 60-day information collection notice in the Federal Register at 77 FR 18256 inviting the public to comment on USCIS's proposed revisions to Form I-9 and renewal request of the information collection to the Office of Management and Budget (OMB) as required by the Paperwork Reduction Act of 1995. USCIS received comments from over 6,200 commenters on the 60-day notice. On August 22, 2012, USCIS published a second notice at 77 FR 50710 inviting the public to comment for a 30-day period. Thereafter, USCIS issued two correction notices. On September 10, 2012, USCIS issued a correction notice at 77 FR 55486 to inform the public that comments should be submitted to OMB. On September 14, 2012, USCIS issued a notice at 77 FR 56856, to correct the eDocket number. The comment period on the 30-day notice was extended to October 15, 2012. On

[Insert date of publication in the FEDERAL REGISTER] OMB approved the revised Form I-9. See OMB No. 1615-0047 at www.reginfo.gov.

II. Changes to Form I-9

The newly revised Form I-9 makes several improvements designed to minimize errors in form completion. The key revisions to Form I-9 include:

- Adding data fields, including the employee's foreign passport information (if applicable) and telephone and e-mail addresses.
- Improving the form's instructions.
- Revising the layout of the form, expanding the form from one to two pages (not including the form instructions and the List of Acceptable Documents).

III. Use of the Revised Form I-9

In this notice, USCIS is announcing that employers should begin using Form I-9 with a revision date of "(Rev. 03/08/13)N" to comply with their employment eligibility verification responsibilities. The revision date is located in the bottom right-hand corner of the form.

After [Insert date 60 days from the date of the FEDERAL REGISTER], all prior versions of Form I-9 can no longer be used by the public. The public can download the new Form I-9 at www.uscis.gov. After [Insert date 60 days from the date of publication in the FEDERAL REGISTER], employers who fail to use Form I-9 (Rev. 03/08/13)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) and DOJ.

Employers must use the new Form I-9 immediately; however, USCIS recognizes that some employers may need additional time in order to make necessary updates to their business

processes to allow for use of the new Form I-9. USCIS recognizes that modifications to electronic systems may be particularly necessary for employers utilizing electronic Forms I-9. For these reasons, USCIS is providing employers 60-days to make necessary changes. USCIS believes that the 60-day period will help alleviate the burden that immediate implementation of the newly revised Form I-9 would have imposed on employers.

Note that employers do not need to complete the new Form I-9 (Rev. 03/08/13)N for current employees for whom there is already a properly completed Form I-9 on file, unless re-verification applies. Unnecessary verification may violate the anti-discrimination provision at section 274B of the INA, 8 U.S.C. 1324b, which is enforced by DOJ's Office of Special Counsel for Immigration Related Unfair Employment Practices.

IV. Obtaining Forms I-9 (Rev. 03/08/13)N

Employers may access the new Form I-9 (Rev. 03/08/13)N online by visiting the USCIS Web site at www.uscis.gov. To order USCIS forms, employers can call our toll-free number at 1-800-870-3676. The public can obtain USCIS forms and information on immigration laws, regulations and procedures by calling our National Customer Service Center at 1-800-375-5283 or by visiting USCIS's I-9 Central web page at www.uscis.gov/I-9Central.

A Spanish-language version of the new Form I-9 is available at www.uscis.gov for use in Puerto Rico only.

Alejandro N. Mayorkas,
Director,
U.S. Citizenship and Immigration Services.

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