

## Revised Form I-9, Employment Eligibility Verification Effective

### Questions and Answers

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### Introduction

U.S. Citizenship and Immigration Services (USCIS) issued a reminder that effective April 3, 2009, all U.S. employers are required to use the revised Form I-9, Employment Eligibility Verification, (Rev. 02/02/09). The revision date can be found in the lower right-hand corner of the form. The interim final rule, published Dec.17, 2008 in the Federal Register, revised the list of documents acceptable for the Employment Eligibility Verification (Form I-9) process. Previous versions of Form I-9 may no longer be used.

### Background

All employers, agricultural recruiters and referrers for a fee are required to verify the identity and employment authorization of each person they hire for employment in the United States. USCIS has revised Form I-9 to bring it into compliance with the governing statutes that require all documents presented during the Form I-9 process to be unexpired. Allowing for expired documents makes it more difficult for employers to verify an employee's identity and employment authorization and compromises the Form I-9 process.

### Questions and Answers

#### Q. Why is a revised Form I-9 being released?

A. The revised Form I-9 reflects changes made to the list of documents acceptable for Form I-9 in accordance with the interim final rule titled "*Documents Acceptable for Employment Eligibility Verification*," published in the Federal Register on Dec. 17, 2008. The rule furthers our ongoing effort to increase the security of the Form I-9 process.

#### Q. In January, USCIS announced a delay in this rule's implementation in order to receive more comments and review the rule further. What was the result of that process?

A. On Jan. 30, 2009, USCIS did announce a 60-day delay in the effective date of the Interim Final Rule, until April 3, 2009, in order to provide the opportunity for further review of the rule. The comment period was reopened for 30 days (until March 4, 2009). After consideration of the comments and review of the rule, we determined that the rule should take effect on April 3, 2009, as scheduled. The comments will be further considered, and responded to, in a subsequent final rulemaking on this subject.

#### Q: What is the difference between the revised Form I-9 and the old one?

A: The biggest difference in the revised Form I-9 is that all documents presented during the Form I-9 process must be unexpired. The list of approved documents that employees can present to verify their identity and employment authorization is divided into three sections: List A documents verify identity and employment authorization, List B documents verify identity only, and List C documents verify employment authorization only.

The following documents have been added or removed from the List of Approved Documents:

*Two documents have been added to List A:*

- A temporary I-551 printed notation on a machine-readable immigrant visa in addition to the foreign passport with a temporary I-551 stamp; and
- A passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with a valid Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI.

*Three documents were removed from List A:*

- Form I-688, Temporary Resident Card;
- Form I-688A, Employment Authorization Card; and
- Form I-688B, Employment Authorization Card.

**Q. Where can I obtain a copy of the revised Form I-9?**

A. The revised Form I-9 can be downloaded, please see Related Links on the right of this page. Employers who do not have computer access can order USCIS forms by calling our toll-free forms line at 1-800-870-3676.

**Q: Has the Handbook for Employers (M-274) been updated?**

A: Yes. *The Handbook for Employers, Instructions for Completing the Form I-9 (M-274)* has been updated to reflect these revisions to the Form I-9 and is available for free, please see Related Links on the right of this page.

**Q. Why can't I present an expired document?**

A. USCIS wants to ensure that documents presented for use in the Form I-9 process are valid and reliably establish both identity and employment authorization status. Expired documents may not demonstrate a valid status and are prone to tampering and fraudulent use. This change takes into account the limits placed on these documents by their issuing authorities. If a document does not contain an expiration date, such as a Social Security card, it is considered unexpired.

**Q. Why is only one type of Employment Authorization Document left in List A?**

A. Forms I-688, I-688A and I-688B are older employment authorization documents. These are no longer issued and have now expired.

**Q. Section 1, Employee Information and Verification of the revised Form I-9, refers to a citizen or noncitizen national of the United States. Who is a noncitizen national?**

A. Noncitizen nationals are persons born in American Samoa, certain former citizens of the former Trust Territory of the Pacific Islands, and certain children of noncitizen nationals born abroad.

More information on U.S. noncitizen nationals can be found at the Department of State *Certificates of Non-Citizen Nationality*, please see "Related Links."

**Q: As an employer, may I accept documents that used to be on the Form I-9 but aren't now?**

A: No. Beginning April 3, 2009, employers may only accept documents on the "List of Acceptable Documents" on the revised Form I-9 (Rev. 02/02/09). When an employee must be reverified because employment authorization has expired, employers should ensure that they use the revised Form I-9 with its new List of Acceptable Documents. An employer may not reverify the employee by completing Section 3 – Updating and Reverification on a previous version of Form I-9.

**Q: Are there any changes in the way the revised Form I-9 is completed?**

A: No. The revised form should be completed exactly the same way as the old one. Employers should be mindful of changes to the types of documents that they may accept in Section 2 – Employer Review and Verification.

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