



In November 2007 the U.S. Citizenship and Immigration Services (USCIS), an arm of the Department of Homeland Security (DHS) announced that a revised Employment Eligibility Verification Form (I-9) must now be used by all employers.

The revised Form I-9 is a further step in USCIS' ongoing work toward reducing the number of documents used to confirm identity and work eligibility.

Key to the revision is the removal of five documents for proof of both identity and employment eligibility.

A few common questions regarding the new form are answered below.

“Employers must use the new Form I-9 for all individuals hired on or after November 7, 2007.”

Frequently Asked Questions

Q: Where can I obtain the new Form I-9?

A: The easiest way is to download it from the DHS website, www.uscis.gov.

Q: When should employers begin using the new Form I-9?

A: Employers must use the new Form I-9 for all individuals hired on or after November 7, 2007. However, DHS will not immediately penalize employers who fail to do so. There will be a short transition period while DHS publicizes the new form. As the DHS has not yet announced when that transition period ends, the best practice is to begin using the new form immediately.

Q: Do I need to complete the new version of Form I-9 for all my employees or just the new ones?

A: Employers only need to complete the new version of Form I-9 for new employees. Employers do not need to complete new forms for existing employees. However, employers must use the new Form I-9 when their employees require re-verification.

Q: What should I do if I re-hire a person who previously filled out the old Form I-9?

A: You must complete the new Form I-9.

Q: What if I currently employ an employee that I hired before November 7, 2007—and I filled out the old I-9 form, and verified eligibility using documents no longer accepted by DHS?

A: Apparently DHS requires no action unless you are required to re-verify (e.g. old documents expired, change in eligibility status, or you are re-hiring the person). If such an event occurs, then use the new Form I-9.

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

A: Five documents have been removed from List A of the List of Acceptable Documents:

- Certificate of U.S. Citizenship (Form N-560 or N-561)
- Certificate of Naturalization (Form N-550 or N-570)
- Alien Registration Receipt Card (I-151)
- Unexpired Reentry Permit (Form I-327)
- Unexpired Refugee Travel Document (Form I-571)

The forms were removed because they lack sufficient features to help deter counterfeiting, tampering, and fraud.

One document was added to List A of the List of Acceptable Documents:

- Unexpired Employment Authorization Document (I-766)

Q: Can I accept documents that used to be on the Form I-9 but aren't now?

A: No.

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

A: No. The updated form should be completed exactly the same way as the old one was. The only material difference is the types of documents that employers may accept in Section 2.

Q: Can I ask Spanish-speaking individuals to fill out the Spanish version Form I-9?

A: No. Although the Form I-9 is available in English and Spanish, employers in the 50 states must complete and retain the English version. Employers may use the Spanish version as a translation guide for Spanish-speaking employees. Employees may also use or ask for a translator/preparer to assist them in completing the form.

Q: The List of Acceptable Documents on Form I-9 includes many unfamiliar documents. Does the government provide illustrations of acceptable documents?

A: Yes. One source is the DHS Handbook For Employers, which can be downloaded from the DHS website. The samples can be found on pages 33-42 of the handbook. For a copy of the Handbook, visit the DHS website, www.uscis.gov, or email Mr. Olmsted for a free copy.

Other questions? Please email Chris Olmsted at cwo@barkerolmsted.com.

