



Handbook for Employers

Instructions for Completing Form I-9
(Employment Eligibility Verification Form)



U.S. Citizenship
and Immigration
Services

M-274 (Rev. 04/03/09) N

Obtaining Form I-9 and the M-274

This Handbook includes one copy of Form I-9, which may be photocopied. You may also download a PDF version of the form from the U.S. Citizenship and Immigration Services (USCIS) Web site at www.uscis.gov. Should you wish to order forms by telephone, call USCIS toll-free at 1-800-870-3636.

Table of Contents

Obtaining Form I-9 and the M-274	Inside cover
Part One—Why Employers Must Verify Employment Authorization and Identity of New Employees	3
Part Two—Completing Form I-9	5
Part Three—Photocopying and Retaining Form I-9	15
Part Four—Unlawful Discrimination and Penalties for Prohibited Practices	19
Part Five—Instructions for Recruiters and Referrers for a Fee	25
Part Six—E-Verify: The Web-based Verification Companion to Form I-9	27
Part Seven—Some Questions You May Have About Form I-9	29
Part Eight—Acceptable Documents for Verifying Employment Authorization and Identity	43

Index	55
Form I-9, Employment Eligibility Verification	57

Part One

Why Employers Must Verify Employment Authorization and Identity of New Employees

In 1986, Congress reformed U.S. immigration laws. These reforms, the result of a bipartisan effort, preserved the tradition of legal immigration while seeking to close the door to illegal entry. The employer sanctions provisions, found in section 274A of the Immigration and Nationality Act (INA), were added by the Immigration Reform and Control Act of 1986 (IRCA). These provisions further changed with the passage of the Immigration Act of 1990 and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996.

Employment is often the magnet that attracts individuals to reside in the United States illegally. The purpose of the employer sanctions law is to remove this magnet by requiring employers to hire only individuals who may legally work here: citizens and nationals of the United States, lawful permanent residents, and aliens authorized to work. To comply with the law, you must verify the identity and employment authorization of each person you hire, complete and retain a Form I-9 for each employee, and refrain from discriminating against individuals on the basis of national origin or citizenship. (See Part Four for more information on unlawful discrimination.)

Form I-9 helps employers to verify individuals who are authorized to work in the United States. You should complete a Form I-9 for every new employee you hire after November 6, 1986.

This Handbook provides guidance on how to properly complete Form I-9, and answers frequently asked questions about the law as it relates to Form I-9.

The Homeland Security Act

The Homeland Security Act of 2002 created an executive department combining numerous federal agencies with a mission dedicated to homeland security. On March 1, 2003, the authorities of the former Immigration and Naturalization Service (INS) were transferred to three new agencies in the U.S. Department of Homeland Security (DHS): U.S. Citizenship and Immigration Services (USCIS), U.S. Customs and Border Protection (CBP), and U.S. Immigration and Customs Enforcement (ICE). The two DHS immigration components most involved with the matters discussed in this Handbook are USCIS and ICE. USCIS is responsible for most documentation of alien employment authorization, for Form I-9 itself, and for the E-Verify employment eligibility verification program. ICE is responsible for enforcement of the penalty provisions of section 274A of the INA, and for other immigration enforcement within the United States.

Under the Homeland Security Act, the U. S. Department of Justice (DOJ) retained certain important responsibilities related to Form I-9 as well. In particular, the Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) in the Civil Rights Division is responsible for enforcement of the anti-discrimination provisions in section 274B of the INA, while the Executive Office for Immigration Review (EOIR) is responsible for the administrative adjudication of cases under sections 274A, 274B, and 274C (civil document fraud) of the INA.

Part Two

Completing Form I-9

You must complete Form I-9 each time you hire any person to perform labor or services in the United States in return for wages or other remuneration. This requirement applies to everyone hired after November 6, 1986.

Ensure that the employee fully completes Section 1 of Form I-9 at the time of hire — when the employee begins work. Review the employee's document(s) and fully complete Section 2 of Form I-9 within 3 business days of the first day of work.

If you hire a person for less than 3 business days, Sections 1 and 2 of Form I-9 must be fully completed when the employee begins work.

You DO NOT need to complete a Form I-9 for persons who are:

1. Hired before November 7, 1986, who are continuing in their employment and have a reasonable expectation of employment at all times;
2. Employed for casual domestic work in a private home on a sporadic, irregular, or intermittent basis;
3. Independent contractors; or
4. Providing labor to you who are employed by a contractor providing contract services (e.g., employee leasing or temporary agencies).
5. Not physically working on U.S. soil.

NOTE: You cannot contract for the labor of an alien if you know the alien is not authorized to work in the United States.

Section 1

Have the employee complete Section 1 when he or she begins to work by filling in the correct information and signing and dating the form. Ensure that the employee prints the information clearly.

If the employee cannot complete Section 1 without assistance or if he or she needs Form I-9 translated, someone may assist him or her. The preparer or translator must read the form to the employee, assist him or her in completing Section 1, and have the employee sign or mark the form in the appropriate place. The preparer or translator must then complete the Preparer/ Translator Certification block on Form I-9.

You are responsible for reviewing and ensuring that your employee fully and properly completes Section 1.

NOTE: Providing a Social Security number on Form I-9 is voluntary for all employees unless you are an employer participating in the USCIS E-Verify Program, which requires an employee's Social Security number for employment eligibility verification. You may not, however, ask an employee to provide you a specific document with his or her Social Security number on it. To do so may constitute unlawful discrimination. For more information on the E-Verify Program, see Part Six. For more information on unlawful discrimination, see Part Four.

Section 1. Employee Information and Verification <i>(To be completed and signed by employee at the time employment begins.)</i>			
Print Name: Last 1 Doe	First John	Middle Initial A	Maiden Name 1
Address (Street Name and Number) 2 123 Main Street		Apt. # 1	Date of Birth (month/day/year) 2 01/01/1952
City 3 Washington	State DC	Zip Code 20011	Social Security # 3 000-00-0000
4 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): <input type="checkbox"/> A citizen of the United States <input type="checkbox"/> A noncitizen national of the United States (see instructions) <input type="checkbox"/> A lawful permanent resident (Alien #) <input checked="" type="checkbox"/> An alien authorized to work (Alien # or Admission #) 0000000000 until (expiration date, if applicable - month/day/year) 02/28/2011 4	
Employee's Signature 5 <i>John Doe</i>		Date (month/day/year) 02/20/2009	
Preparer and/or Translator Certification <i>(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.</i>			
Preparer's/Translator's Signature 6 <i>Jane Doe</i>		Print Name 6 Jane Doe	
Address (Street Name and Number, City, State, Zip Code) 123 Main Street, Apt. 2, Washington, DC 20011		Date (month/day/year) 02/20/2009	

Figure 1: Instructions for Completing Section 1: Employee Information and Verification

- 1** Employee enters full name and maiden name, if applicable.
- 2** Employee enters current address and date of birth.
- 3** Employee enters his or her city, state, ZIP Code, and Social Security number. Entering the Social Security number is optional unless the employer verifies employment authorization through the USCIS E-Verify Program.
- 4** Employee reads warning and attests to his or her citizenship or immigration status.
- 5** Employee signs and dates the form.
- 6** If the employee uses a preparer or translator to fill out the form, that person must certify that he or she assisted the employee by completing this signature block.

Section 2

The employee must present to you an original document or documents that establish identity and employment authorization within 3 business days of the date employment begins. Some documents establish both identity and employment authorization (List A). Other documents establish identity only (List B) or employment authorization only (List C). The employee can choose which document(s) he or she wants to present from the Lists of Acceptable Documents. This list appears in Part Eight and on the last page of Form I-9.

Examine the original document or documents the employee presents and then fully complete Section 2 of

Form I-9. You must examine one document from List A, or one from List B **AND** one from List C. Record the title, issuing authority, number, and expiration date (if any) of the document(s); fill in the date of hire and correct information in the certification block; and sign and date Form I-9. You must accept any document(s) from the Lists of Acceptable Documents presented by the individual that reasonably appear on their face to be genuine and to relate to the person presenting them. You may not specify which document(s) an employee must present.

NOTE: If you participate in the E-Verify Program, you may only accept List B documents that bear a photograph.

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).)*

1	List A	OR	List B	AND	List C
Document title:	EAD				
Issuing authority:	DHS/USCIS				
Document #:	LIN1234567891				
Expiration Date (if any):	02/28/2011				
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) 02/20/2009 and that to the best of my knowledge the employee is authorized to work in the United States. (State employment agencies may omit the date the employee began employment.)

3	Signature of Employer or Authorized Representative <i>John Smith</i>	Print Name John Smith	Title Manager
	Business or Organization Name and Address (Street Name and Number, City, State, Zip Code) Burger Corp., 123 S. Main Street, Washington, DC 20011		Date (month/day/year) 02/23/2009

Figure 2: Section 2: Employer Review and Verification

- 1 Employer records document title(s), issuing authority, document number, and the expiration date from original documents supplied by employee. See Part Eight for the Lists of Acceptable Documents.

NOTE: You may use abbreviations for commonly used documents, e.g., DL for driver's license and SS for Social Security.

- 2 Employer enters date employment began.
- 3 Employer attests to examining the documents provided by filling out the signature block.

In certain circumstances, employers, recruiters, and referrers for a fee must accept a receipt in lieu of a List A, List B, or a List C document if one is presented by an employee. A receipt indicating that an individual has applied for initial employment authorization or for an extension of expiring employment authorization is NOT

acceptable proof of employment authorization on Form I-9. Receipts are never acceptable if employment lasts less than 3 business days.

Some examples of receipts and temporary employment authorization documents an employee can present are listed in the tables below:

Table 1: Receipts

Receipt	Who may present this receipt?	Is this receipt proof of employment authorization and/or identity?	How long is this receipt valid?	What must the employee present at the end of the receipt validity period?
A receipt for a replacement of a lost, stolen, or damaged document	All employees	A receipt fulfills the verification requirements of the document for which the receipt was issued (can be List A, List B, or List C)	90 days from date of hire or, for reverification, the date employment authorization expires	The actual document for which the receipt was issued

Receipt	Who may present this receipt?	Is this receipt proof of employment authorization and/or identity?	How long is this receipt valid?	What must the employee present at the end of the receipt validity period?
The arrival portion of the Form I-94 or I-94A containing a Temporary I-551 stamp and photograph	Lawful Permanent Residents	Employment authorization and identity (List A)	Until the expiration date of the Temporary I-551 stamp or, if no expiration date, 1 year from date of issue	The actual Form I-551 (Permanent Resident Card, or green card)
The departure portion of Form I-94 or I-94A with an unexpired refugee admission stamp	Refugees	Employment authorization and identity (List A)	90 days from date of hire or, for reverification, the date employment authorization expires	An unexpired EAD (Form I-766) or a combination of a valid List B document and an unrestricted Social Security card

When the employee provides an acceptable receipt, record the document title in Section 2 of the Form I-9 and write the word “receipt” and its document number in the “Document #” space. When the employee presents the actual document, cross out the word “receipt” and any accompanying document number, insert the number from the actual document presented, and initial and date the change.

Some examples of documents that employment-authorized aliens with unique or temporary employment authorization may present to employers are listed in the table below.

Table 2: Temporary Employment Authorization

Document(s)	Who may present this document?	Is this document proof of employment authorization and/or identity?	How long is this document valid?
An Employment Authorization Document (EAD) (Form I-766) that is expired on its face, but that has been automatically extended by a Federal Register notice. The Federal Register notice will describe, based on unique notations on the cards, which EADs have been automatically extended. (To minimize confusion over this extension at the time of hire or reverification, qualified individuals may present a copy of the applicable Federal Register notice regarding the auto-extension of employment authorized status.)	Individual with Temporary Protected Status (TPS) who qualifies for automatic extension of employment authorized status as announced in the Federal Register notice	Employment authorization and identity (List A)	Validity period is the period stated in the Federal Register notice
A foreign passport, a Form I-94 or I-94A indicating H-1B nonimmigrant status, and Form I-797 indicating USCIS’ receipt of the H-1B petition	H-1B nonimmigrant who is changing employers and is authorized to begin working for the new employer at the time the new employer files a petition on his or her behalf	Employment authorization and identity (List A)	Until the date of USCIS’ written decision

Document(s)	Who may present this document?	Is this document proof of employment authorization and/or identity?	How long is this document valid?
<p>An expired EAD (Form I-766 issued for post-completion Optional Practical Training (OPT) issued under category (c)(3)(i)(B) or the 17-month OPT STEM extension issued under category (c)(3)(i)(C)) combined with a Form I-20 endorsed by the F-1 student's DSO and the USCIS receipt notice (Form I-797), showing receipt of the H-1B petition</p> <p>If the receipt notice has not yet been issued, the expired EAD and Form I-20 are sufficient</p>	F-1 student whose employment authorization has been automatically extended under the "cap gap" until his or her employment start date as an H-1B nonimmigrant	Employment authorization and identity (List A)	<p>Until September 30 of each year, or until the H-1B petition is rejected, denied, or withdrawn</p> <p>If the student presented a Form I-20 without a receipt notice, the employer must reverify upon the expiration date noted on the Form I-20 (but not later than September 30 of each year)</p>
An expired EAD (Form I-766 issued for post-completion OPT, issued under category (c)(3)(i)(B)), combined with a Form I-20 endorsed by the F-1 student's DSO recommending the STEM extension and the USCIS receipt notice (Form I-797) showing timely filing of the STEM extension application	F-1 student whose employment authorization has been automatically extended until his or her OPT STEM extension is adjudicated	Employment authorization and identity (List A)	Until the date of USCIS' written decision, but not to exceed 180 days beginning on the date of EAD expiration
A foreign passport, an expired Form I-94 or I-94A indicating employment authorized nonimmigrant status, and a USCIS receipt notice (Form I-797) indicating a timely filed application for an extension of stay	Nonimmigrant* whose status has expired but who timely filed an application for an extension of status	Employment authorization and identity (List A)	Authorized to continue employment with the same employer until the date of USCIS' written decision, but not to exceed 240 days beginning on the date of Form I-94 or I-94A expiration
A valid Form I-94 or I-94A with an asylee approval stamp stating "asylum," "granted indefinitely," or the appropriate provision of law (274a.12(a)(5) or INA 208).	Asylee	Employment authorization (List C)	This document does not expire
An expired Permanent Resident Card (Form I-551) and Form I-797 "Notice of Action" from USCIS stating that the Permanent Resident Card has been extended for 1 year	Conditional Lawful Permanent Resident who has applied to have his or her conditional status removed	Employment authorization (List C)	1 year from the original expiration date on the I-551

*A-3, E-1, E-2, G-5, H-1B, H-2A, H-2B, H-3, I, J-1 (specific categories), L-1A, L-1B, O-1, O-2, P-1, P-2, P-3, Q-1, Q-2, R-1, TN (per 8 CFR 274a.12 (b)(20))

Minors (Individuals Under Age 18)

If a minor – a person under the age of 18 – cannot present a List A document or an identity document from List B, complete Form I-9 as follows:

1. A parent or legal guardian must complete Section 1 and write “Individual under age 18” in the space for the employee’s signature;
2. The parent or legal guardian must complete the “Preparer/Translator Certification” block;
3. Write “Individual under age 18” in Section 2, under List B; and
4. The minor must present a List C document showing his or her employment authorization. You should record the required information in the appropriate space in Section 2.

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
1 Doe	Jane	B	
Address (Street Name and Number)		Apt. #	Date of Birth (month/day/year)
123 Cross Street		1	05/15/1993
City	State	Zip Code	Social Security #
Washington	DC	20011	000-00-0000
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):	
		<input checked="" type="checkbox"/> A citizen of the United States <input type="checkbox"/> A noncitizen national of the United States (see instructions) <input type="checkbox"/> A lawful permanent resident (Alien #) _____ <input type="checkbox"/> An alien authorized to work (Alien # or Admission #) _____ until (expiration date, if applicable - month/day/year) _____	
Employee's Signature		Date (month/day/year)	
INDIVIDUAL UNDER AGE 18		02/20/2009	
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	
John Doe		John Doe	
Address (Street Name and Number, City, State, Zip Code)		Date (month/day/year)	
123 Cross Street, Apt. 1, Washington, DC 20011		02/20/2009	
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:		Individual under age 18	Social Security Card
Issuing authority:			SSA 000-00-0000
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) 02/20/2009 and that to the best of my knowledge the employee is authorized 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
John Smith		John Smith	Floor Manager
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)		Date (month/day/year)	
Warm Coat Co. 456 S. Main Street, Washington, DC 20013		02/23/2009	

Figure 3: Completing Form I-9 for Minors

- 1 A parent or legal guardian of a minor employee completes Section 1 and writes, “Individual under age 18” in signature space.

- 2 A parent or legal guardian completes the Preparer and/or Translator block.
- 3 Enter "Individual under age 18" under List B and records the List C document the minor presents.

Employees With Disabilities (Special Placement)

If a person with a disability, who is placed in a job by a nonprofit organization, association, or as part of a rehabilitation program, cannot present a List A document or an identity document from List B, complete Form I-9 as follows:

1. A representative of the nonprofit organization, a parent or a legal guardian must complete Section 1 and write "Special Placement" in the space for the employee's signature;

2. The representative, parent or legal guardian must complete the "Preparer/Translator Certification" block;
3. Write "Special Placement" in Section 2, under List B; and
4. The employee with a disability must present a List C document showing his or her employment authorization. Record the required information in the appropriate space in Section 2.

Section 1. Employee Information and Verification (To be completed and signed by employee at the time employment begins.)			
Print Name: Last 1 Doe	First John	Middle Initial T	Maiden Name
Address (Street Name and Number) 123 Side Street		Apt. # 1	Date of Birth (month/day/year) 09/06/1987
City Washington	State DC	Zip Code 20011	Social Security # 000-00-0000
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): <input checked="" type="checkbox"/> A citizen of the United States <input type="checkbox"/> A noncitizen national of the United States (see instructions) <input type="checkbox"/> A lawful permanent resident (Alien #) <input type="checkbox"/> An alien authorized to work (Alien # or Admission #) until (expiration date, if applicable - month/day/year)	
Employee's Signature 1 SPECIAL PLACEMENT		Date (month/day/year) 02/20/2009	
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/Translator's Signature 2		Print Name Jane Smith	
Address (Street Name and Number, City, State, Zip Code) 123 Main Avenue, Suite 1, Washington, DC 20011		Date (month/day/year) 02/20/2009	
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	List C
Document title:		Special Placement	Social Security Card
Issuing authority:		3	SSA 000-00-0000
Document #:		3	3
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) 02/20/2009 and that to the best of my knowledge the employee is authorized 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 Jane Doe	Title Owner
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code) A Restaurant, 321 S. Main Street, Washington, DC 20011		Date (month/day/year) 02/23/2009	

Figure 4: Completing Form I-9 for Employees with Disabilities (Special Placement)

- 1 A representative of a nonprofit organization, parent or legal guardian of an individual with a disability completes Section 1 and writes, “Special Placement” in signature space.
 - 2 The representative, parent, or legal guardian completes the Preparer and/or Translator block.
 - 3 Enter “Special Placement” under List B and records the List C document the employee with a disability presents.
-

Future Expiration Dates

Future expiration dates may appear on the employment authorization documents of aliens, including, among others, permanent residents and refugees. USCIS includes expiration dates even on documents issued to aliens with permanent employment authorization. The existence of a future expiration date:

1. Does not preclude continuous employment authorization;
2. Does not mean that subsequent employment authorization will not be granted; and
3. Should not be considered in determining whether the alien is qualified for a particular position.

Considering a future employment authorization expiration date in determining whether an alien is qualified for a particular job may constitute employment discrimination. (See Part Four.) However, as described below, you may need to reverify the employee’s authorization to work when certain List A or List C documents expire.

Reverifying Employment Authorization for Current Employees

When an employee’s employment authorization expires, you must reverify his or her employment authorization. You may use Section 3 of Form I-9, or, if Section 3 has already been used for a previous reverification or update, use a new Form I-9. If you use a new form, write the employee’s name in Section 1, complete Section 3, and retain the new form with the original. The employee must present a document that shows either an extension of his or her initial employment authorization or new employment authorization. If the employee cannot provide you with proof of current employment authorization (e.g., any document from List A or List C, including an unrestricted Social Security card), you cannot continue to employ that person.

NOTE: Do not reverify List B identity documents, such as a driver’s license.

To maintain continuous employment authorization, an employee with temporary employment authorization should timely file for new employment authorization or an extension of stay prior to the expiration of his or her current document or authorized period of stay. If the employee is authorized to work for a specific employer and has filed an application for an extension of stay, he or she may continue employment with the same employer for up to 240 days from the date the authorized period of stay expires. If an employee has timely filed for new employment authorization and USCIS fails to adjudicate that application within 90 days, the employee will be granted an employment authorization document for a period up to 240 days.

NOTE: You must reverify an employee’s employment authorization on Form I-9 not later than the date the employee’s employment authorization expires.

Reverifying or Updating Employment Authorization for Rehired Employees

When you rehire an employee, you must ensure that he or she is still authorized to work. You may do this by completing a new Form I-9 or you may reverify or update the original form by completing Section 3.

If you rehire an employee who has previously completed a Form I-9, you may reverify on the employee’s original Form I-9 (or on a new Form I-9 if Section 3 of the original has already been used) if:

1. You rehire the employee within 3 years of the initial date of hire; and
2. The employee’s previous grant of employment authorization has expired, but he or she is now eligible to work under a new grant of employment authorization; or
3. The employee is still eligible to work on the same basis as when Form I-9 was completed.

To reverify, you must:

1. Record the date of rehire;
2. Record the document title, number and expiration date (if any) of the document(s) the employee presents;
3. Sign and date Section 3; and
4. If you are reverifying on a new Form I-9, write the employee's name in Section 1.

To update, you must:

1. Record the date of rehire and the employee's new name, if applicable;

2. Sign and date Section 3; and

3. If you are updating on a new Form I-9, write the employee's name in Section 1.

You may complete Sections 1 and 2 on a new Form I-9 instead of completing Section 3 when rehiring employees.

NOTE: You must complete a new Form I-9 if the version of the form you used for the previous verification has since been replaced by a newer version.

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

1 A. New Name *(if applicable)* _____ B. Date of Rehire *(month/day/year)* *(if applicable)* _____

2 C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment authorization.

Document Title: EAD Document #: LIN1234567892 Expiration Date *(if any)*: 02/28/2013

I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized 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.

3 Signature of Employer or Authorized Representative _____ Date *(month/day/year)* 02/28/2011

Figure 5: Reverification of Employment Authorization for Current Employees and Rehires

- 1** Record the employee's new name, if applicable, and date of rehire, if applicable.
- 2** Record the document title, number, and expiration date (if any) of document(s) presented.
- 3** Sign and date.

NOTE: You may also fill out a new Form I-9 in lieu of filling out this section.

Part Three

Photocopying and Retaining Form I-9

Employers must retain completed Forms I-9 for all employees for 3 years after the date they hire an employee, or 1 year after the date employment is terminated, whichever is later. These forms can be retained in paper, microfilm, microfiche, or electronically.

To store Forms I-9 electronically, you may use any electronic recordkeeping, attestation, and retention system that complies with DHS standards, which includes most commercially available off-the-shelf computer programs and commercial automated data processing systems. However, the system must not be subject to any agreement that would restrict access to and use of it by an agency of the United States. (See Electronic Retention of Forms I-9 below.)

Issues Relating to Merging or Successive Companies

If you acquire a business and its employees, you may choose to keep the previous owner's Forms I-9 for each acquired employee, but you are responsible for any errors or omissions in them. To avoid this liability, you may choose to complete a new Form I-9 for each acquired employee. If you do so, you must do so uniformly for all of your acquired employees, without regard to actual or perceived citizenship status or national origin.

Paper Retention of Forms I-9

Form I-9 can be signed and stored in paper format. Simply photocopy or print a complete, blank Form I-9. Ensure that the employee receives the instructions for completing the form.

When copying or printing the paper Form I-9, you may photocopy the two-sided form by making either double-sided or single-sided copies.

You may retain completed paper forms onsite, or at an off-site storage facility, for the required retention period, as long as you are able to present the Forms I-9 within 3 days of an inspection request from DHS, OSC, or U.S. Department of Labor (DOL) officers.

Microform Retention of Forms I-9

You may store Forms I-9 on microfilm or microfiche. To do so:

1. Select film stock that will preserve the image and allow its access and use for the entire retention period, which could be upward of 20 years, depending on the employee and your business.
2. Use well-maintained equipment to create and view microfilms and microfiche that provides clear viewing, and can reproduce legible paper copies. DHS officers must have immediate access to clear, readable documents should they need to inspect your forms.
3. Place indexes either in the first frames of the first roll of film, or in the last frames of the last roll of film of a series. For microfiche, place them in the last frames of the last microfiche or microfilm jacket of a series.

Remember: Forms I-9 must be stored for 3 years after the date you hire an employee, or 1 year after the date you or the employee terminates employment, whichever is later. For example, if an employee retires from your company after 15 years, you will need to store his or her Form I-9 for a total of 16 years.

Electronic Forms I-9

USCIS provides a Portable Document Format fillable-printable Form I-9 from its Web site, www.uscis.gov. Form I-9 can be electronically generated and retained, provided that:

1. The resulting form is legible;
2. No change is made to the name, content, or sequence of the data elements and instructions;
3. No additional data elements or language are inserted;
4. The employee receives Form I-9 instructions; and
5. The standards specified under 8 CFR 274a.2(e) are met.

Electronic Retention of Forms I-9

You may complete or retain Form I-9 in an electronic generation or storage system that includes:

1. Reasonable controls to ensure the integrity, accuracy, and reliability of the electronic storage system;
2. Reasonable controls designed to prevent and detect the unauthorized or accidental creation of, addition to, alteration of, deletion of, or deterioration of an electronically completed or stored Form I-9, including the electronic signature, if used;
3. An inspection and quality assurance program that regularly evaluates the electronic generation or storage system, and includes periodic checks of electronically stored Forms I-9, including the electronic signature, if used;
4. A retrieval system that includes an indexing system that permits searches by any data element; and
5. The ability to reproduce legible paper copies.

Remember, Forms I-9 must be stored for 3 years after the date you hire an employee, or 1 year after the date you or the employee terminates employment, whichever is later, which can result in a long retention period.

Retaining Copies of Form I-9 Documentation

You may choose to copy or scan documents presented by an employee, which you must retain with his or her Form I-9. Even if you retain copies of documentation, you are still required to fully complete Section 2 of Form I-9. If you choose to retain copies of employee documentation, you must do so for all employees, regardless of national origin or citizenship status, or you may be in violation of anti-discrimination laws.

Electronic Signature of Forms I-9

You may choose to fill out a paper Form I-9 and scan and upload the signed form to retain it electronically. Once you have securely stored Form I-9 in electronic format, you may destroy the original paper Form I-9.

If you complete Forms I-9 electronically using an electronic signature, your system for capturing electronic signatures must allow signatories to acknowledge that they read the attestation and attach the electronic signature to an electronically completed Form I-9. In addition, the system must:

1. Affix the electronic signature at the time of the transaction;
2. Create and preserve a record verifying the identity of the person producing the signature; and

3. Provide a printed confirmation of the transaction, at the time of the transaction, to the person providing the signature.

NOTE: If you choose to use electronic signature to complete Form I-9, but do not comply with these standards, DHS will determine that you have not properly completed Form I-9, in violation of section 274A(a)(1)(B) of the INA. (8 CFR Part 274a.2(f)(2))

System Documentation

For each electronic generation or storage system used, you must maintain and make available upon request complete descriptions of:

1. The electronic generation and storage system, including all procedures relating to its use;
2. The indexing system, which permits the identification and retrieval of relevant records maintained in an electronic storage system; and
3. The business processes that create, modify, and maintain the retained Forms I-9 and establish the authenticity and integrity of the forms, such as audit trails.

NOTE: Insufficient or incomplete documentation is a violation of section 274A(a)(1)(B) of the INA (8 CFR Part 274a.2(f)(2)).

Security

If you retain Forms I-9 electronically, you must implement a records security program that:

1. Ensures that only authorized personnel have access to electronic records;
2. Provides for backup and recovery of records to protect against information loss;
3. Ensures that employees are trained to minimize the risk of unauthorized or accidental alteration or erasure of electronic records; and
4. Ensures that whenever an individual creates, accesses, views, updates, or corrects an electronic record, the system creates a secure and permanent record that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.

NOTE: If an employer's action or inaction results in the alteration, loss, or erasure of electronic records, and the

employer knew, or reasonably should have known, that the action or inaction could have that effect, the employer is in violation of section 274A(a)(1)(B) of the INA. (8 CFR Part 274a.2(f)(2))

Inspection

DHS, OSC, and DOL give employers 3 days' notice prior to inspecting retained Forms I-9. The employer must make Forms I-9 available upon request at the location where DHS, OSC, or DOL requests to see them.

If you store Forms I-9 at an off-site location, inform the inspecting officer of the location where you store them and make arrangements for the inspection. The inspecting officers can perform an inspection at an office of an authorized agency of the United States if previous arrangements are made. Recruiters or referrers for a fee who designate an employer to complete employment verification procedures may present photocopies or printed electronic images of Forms I-9 at an inspection. If you refuse or delay an inspection, you will be in violation of DHS retention requirements.

At the time of an inspection, you must:

1. Retrieve and reproduce **only** the Forms I-9 electronically retained in the electronic storage system and supporting documentation specifically requested by the inspecting officer. Supporting documentation includes associated audit trails that show who has accessed the system and the actions performed within or on the system during a given period of time.
2. Provide the inspecting officer with appropriate hardware and software, personnel, and documentation necessary to locate, retrieve, read, and reproduce any electronically stored Forms I-9, any supporting documents, and their associated audit trails, reports, and other data used to maintain the authenticity, integrity, and reliability of the records.
3. Provide the inspecting officer, if requested, any reasonably available or obtainable electronic summary file(s), such as spreadsheets, containing all of the information fields on all of the electronically stored Forms I-9.

Part Four

Unlawful Discrimination and Penalties for Prohibited Practices

Unlawful Discrimination

General Provisions

The anti-discrimination provision of the INA, as amended, prohibits 4 types of unlawful conduct:

1. Citizenship or immigration status discrimination;
2. National origin discrimination;
3. Unfair documentary practices during Form I-9 process (document abuse); and
4. Retaliation.

The Office of Special Counsel for Immigration-Related Unfair Employment Practices, Civil Rights Division, Department of Justice (OSC), enforces the anti-discrimination provision of the INA. Title VII of the Civil Rights Act of 1964 (Title VII), as amended, also prohibits national origin discrimination, among other types of conduct. The U.S. Equal Employment Opportunity Commission (EEOC) enforces Title VII.

OSC and EEOC share jurisdiction over national origin discrimination charges. Generally, the EEOC has jurisdiction over larger employers with 15 or more employees, whereas OSC has jurisdiction over smaller employers with between 4 and 14 employees. OSC's jurisdiction over national origin discrimination claims is limited to intentional acts of discrimination with respect to hiring, firing, and recruitment or referral for a fee, but the EEOC's jurisdiction is broader. Title VII covers both intentional and unintentional acts of discrimination in the workplace, including discrimination in hiring, firing, recruitment, promotion, assignment, compensation, and other terms and conditions of employment. OSC has exclusive jurisdiction over citizenship or immigration status discrimination claims against all employers with four or more employees. Similarly, OSC has exclusive jurisdiction over all document abuse claims against employers with four or more employees.

Types of Employment Discrimination Prohibited Under the INA

Document Abuse

Discriminatory documentary practices related to verifying the employment authorization and identity of employees during Form I-9 process is called document abuse. Document abuse occurs when employers treat individuals differently on the basis of national origin or citizenship status in Form I-9 process. Document abuse can be broadly categorized into four types of conduct:

1. Improperly requesting that employees produce more documents than are required by Form I-9 to establish the employee's identity and employment authorization;
2. Improperly requesting that employees present a particular document, such as a "green card," to establish identity and/or employment authorization;
3. Improperly rejecting documents that reasonably appear to be genuine and belong to the employee presenting them; and
4. Improperly treating groups of applicants differently when completing Form I-9, such as requiring certain groups of employees who look or sound "foreign" to produce particular documents the employer does not require other employees to produce.

These practices may constitute unlawful document abuse and should be avoided when verifying employment authorization. All employment-authorized individuals are protected against this type of discrimination. The INA's provision against document abuse covers employers with 4 or more employees.

Citizenship Status Discrimination

Citizenship or immigration status discrimination occurs when an employer treats employees differently based on their citizenship or immigration status in regard to hiring, firing, or recruitment or referral for a fee. U.S. citizens, recent permanent residents, temporary residents

under the IRCA legalization program, asylees, and refugees are protected. An employer must treat all of these groups the same. Subject to limited exceptions, the INA's provision against citizenship or immigration status discrimination covers employers with 4 or more employees.

National Origin Discrimination

This form of discrimination occurs when an employer treats employees differently based on their national origin in regard to hiring, firing, or recruitment or referral for a fee. An employee's national origin relates to the employee's place of birth, country of origin, ancestry, native language, accent, or because he or she is perceived as looking or sounding "foreign." All work-authorized individuals are protected from national origin discrimination. The INA's provision against national origin discrimination generally covers employers with 4 to 14 employees.

Retaliation

Retaliation occurs when an employer or other covered entity intimidates, threatens, coerces, or otherwise retaliates against an individual because the individual has filed an immigration-related employment discrimination charge or complaint; has testified or participated in any immigration-related employment discrimination investigation, proceeding, or hearing; or otherwise asserts his or her rights under the INA's anti-discrimination provision.

Types of Discrimination Prohibited by Title VII

As noted above, Title VII also prohibits employment discrimination on the basis of national origin, as well as race, color, religion, and sex. Title VII covers employers that employ 15 or more employees for 20 or more weeks in the preceding or current calendar year, and prohibits discrimination in any aspect of employment, including: hiring and firing; compensation, assignment, or classification of employees; transfer, promotion, layoff, or recall; job advertisements; recruitment; testing; use of company facilities; training and apprenticeship programs; fringe benefits; pay, retirement plans, and leave; or other terms and conditions of employment.

Avoiding Discrimination in Recruiting, Hiring, and Form I-9 Process

In practice, you should treat employees equally when recruiting and hiring, and when verifying employment authorization and identity during Form I-9 process. You should not:

1. Set different employment eligibility verification standards or require that different documents be presented by employees because of their national origin and citizenship status. For example, you cannot demand that non-U.S. citizens present DHS-issued documents. Each employee must be allowed to choose the documents that he or she will present from the lists of acceptable Form I-9 documents. For example, both citizens and work-authorized aliens may produce a driver's license (List B) and an unrestricted Social Security card (List C) to establish identity and employment authorization. However, documents that are clearly inconsistent may be rejected.
2. Request to see employment eligibility verification documents before hire and completion of Form I-9 because someone looks or sounds "foreign," or because someone states that he or she is not a U.S. citizen.
3. Refuse to accept a document, or refuse to hire an individual, because a document has a future expiration date.
4. Request that, during reverification, an employee present a new unexpired Employment Authorization Document if he or she presented one during initial verification. For reverification, each employee must be free to choose to present any document either from List A or from List C. Refugees and asylees may possess employment authorization documents, but they are authorized to work based on their status, and may possess other documents that prove employment authorization from List A or List C to show upon reverification, such as an unrestricted Social Security card.
5. Limit jobs to U.S. citizens unless U.S. citizenship is required for the specific position by law; regulation; executive order; or federal, state, or local government contract. On an individual basis, you may legally prefer a U.S. citizen or national over an equally qualified alien to fill a specific position, but you may not adopt a blanket policy of always preferring citizens over noncitizens.

Procedures for Filing Charges of Employment Discrimination

OSC

Discrimination charges may be filed by an individual who believes he or she is the victim of employment

discrimination, a person acting on behalf of such an individual, or a DHS officer who has reason to believe that discrimination has occurred.

Discrimination charges must be filed with OSC within 180 days of the alleged discriminatory act. Upon receipt of a complete discrimination charge, OSC will notify you within 10 days that a charge has been filed and commence its investigation. If OSC has not filed a complaint with an administrative law judge within 120 days of receiving a charge of discrimination, it will notify the charging party (other than a DHS officer) of its right to file a complaint with an administrative law judge within 90 days after receiving the notice. In addition, OSC may still file a complaint within this 90-day period. If a complaint is filed, the administrative law judge will conduct a hearing and issue a decision. OSC may also attempt to settle a charge, or the parties may enter into settlement agreements resolving the charge.

EEOC

A charge must be filed with EEOC within 180 days from the date of the alleged violation to protect the charging party's rights. This 180-day filing deadline is extended to 300 days if the charge also is covered by a state or local anti-discrimination law.

Employers Prohibited From Retaliating Against Employees

You cannot take retaliatory action against a person who has filed a charge of discrimination with OSC or the EEOC, was a witness or otherwise participated in the investigation or prosecution of a discrimination complaint, or otherwise asserts his or her rights under the INA's anti-discrimination provision and/or Title VII. Such retaliatory action may constitute a violation of the INA's anti-discrimination provision and/or Title VII.

Additional Information

For more information relating to discrimination during Form I-9 process, contact OSC at 1-800-255-8155 (employer hotline) or 1-800-237-2515 (TDD); or visit OSC's Web site at <http://www.usdoj.gov/crt/osc>.

For more information on Title VII and EEOC policies and procedures, call 1-800-USA-EEOC, or 1-800-669-6820 (TTY for hearing impaired), or visit EEOC's Web site at <http://www.eeoc.gov>.

Penalties for Prohibited Practices

Unlawful Employment

Civil Penalties

DHS may impose penalties if an investigation reveals that you knowingly hired or knowingly continued to employ an unauthorized alien, or failed to comply with the employment eligibility verification requirements with respect to employees hired after November 6, 1986. DHS will issue a Notice of Intent to Fine (NIF) when it intends to impose penalties. If you receive a NIF, you may request a hearing before an administrative law judge. If your request for a hearing is not received within 30 days, DHS will impose the penalty and issue a Final Order, which cannot be appealed.

Hiring or continuing to employ unauthorized aliens

If DHS determines that you have knowingly hired unauthorized aliens (or are continuing to employ aliens knowing that they are or have become unauthorized to work in the United States), it may order you to cease and desist from such activity and pay a civil money penalty as follows:

1. First Offense: Not less than \$375 and not more than \$3,200 for each unauthorized alien;
2. Second offense: Not less than \$3,200 and not more than \$6,500 for each unauthorized alien; or
3. Subsequent Offenses: Not less than \$4,300 and not more than \$11,000 for each unauthorized alien.

DHS will consider you to have knowingly hired an unauthorized alien if, after November 6, 1986, you use a contract, subcontract or exchange, entered into, renegotiated or extended, to obtain the labor of an alien and know the alien is not authorized to work in the United States. You will be subject to the penalties set forth above.

Failing to comply with Form I-9 requirements

If you fail to properly complete, retain, and/or make available for inspection Forms I-9 as required by law, you may face civil money penalties in an amount of not less than \$110 and not more than \$1,100 for each violation.

In determining the amount of the penalty, DHS considers:

1. The size of the business of the employer being charged;

2. The good faith of the employer;
3. The seriousness of the violation;
4. Whether or not the individual was an unauthorized alien; and
5. The history of previous violations of the employer.

Enjoining pattern or practice violations

If the Attorney General has reasonable cause to believe that a person or entity is engaged in a pattern or practice of employment, recruitment or referral in violation of section 274A(a)(1)(A) or (2) of the INA, the Attorney General may bring civil action in the appropriate U.S. District Court requesting relief, including a permanent or temporary injunction, restraining order, or other order against the person or entity, as the Attorney General deems necessary.

Requiring indemnification

Employers found to have required a bond or indemnity from an employee against liability under the employer sanctions laws may be ordered to pay a civil money penalty of \$1,100 for each violation and to make restitution, either to the person who was required to pay the indemnity, or, if that person cannot be located, to the U.S. Treasury.

Good faith defense

If you can show that you have, in good faith, complied with Form I-9 requirements, then you have established a “good faith” defense with respect to a charge of knowingly hiring an unauthorized alien, unless the government can show that you had actual knowledge of the unauthorized status of the employee.

A good faith attempt to comply with the paperwork requirements of section 274A(b) of the INA may be adequate notwithstanding a technical or procedural failure to comply, unless you fail to correct a violation within 10 days after notice from DHS.

Criminal Penalties

Engaging in a pattern or practice of knowingly hiring or continuing to employ unauthorized aliens

Persons or entities who are convicted of having engaged in a pattern or practice of knowingly hiring unauthorized aliens (or continuing to employ aliens knowing that they are or have become unauthorized to work in the United States) after November 6, 1986, may face fines of up to \$3,000 per employee and/or 6 months imprisonment.

Engaging in fraud or false statements, or otherwise misusing visas, immigration permits and identity documents

Persons who use fraudulent identification or employment authorization documents or documents that were lawfully issued to another person, or who make a false statement or attestation to satisfy the employment eligibility verification requirements, may be fined, or imprisoned for up to 5 years, or both. Other federal criminal statutes may provide higher penalties in certain fraud cases.

Unlawful Discrimination

If an investigation reveals that you engaged in unfair immigration-related employment practices under the INA, OSC may take action. You will be ordered to stop the prohibited practice and may be ordered to take one or more corrective steps, including:

1. Hiring or reinstating, with or without back pay, individuals directly injured by the discrimination;
2. Posting notices to employees about their rights and about employers’ obligations; and/or
3. Educating all personnel involved in hiring about complying with the employer sanctions and antidiscrimination laws about the requirements of these laws.

The court may award attorney’s fees to prevailing parties, other than the United States, if it determines that the losing parties’ argument is without foundation in law and fact.

Employers who commit citizenship status or national origin discrimination in violation of the anti-discrimination provision of the INA may also be ordered to pay a civil money penalty as follows:

1. First Offense: Not less than \$375 and not more than \$3,200 for each individual discriminated against.
2. Second Offense: Not less than \$3,200 and not more than \$6,500 for each individual discriminated against.
3. Subsequent Offenses: Not less than \$4,300 and not more than \$16,000 for each individual discriminated against.

Employers who commit document abuse in violation of the anti-discrimination provision of the INA may similarly be ordered to pay a civil money penalty of not less

than \$110 and not more than \$1,100 for each individual discriminated against.

If you are found to have committed national origin discrimination under Title VII, you may be ordered to stop the prohibited practice and to take one or more corrective steps, including:

1. Hiring, reinstating or promoting with back pay and retroactive seniority;
2. Posting notices to employees about their rights and about the employer's obligations; and/or
3. Removing incorrect information, such as a false warning, from an employee's personnel file.

Under Title VII, compensatory damages may also be available where intentional discrimination is found. Damages may be available to compensate for actual monetary losses, for future monetary losses, and for mental anguish and inconvenience. Punitive damages may be available if you acted with malice or reckless indifference.

You may also be required to pay attorneys' fees, expert witness fees, and court costs.

Civil Document Fraud

If a DHS investigation reveals that an individual has knowingly committed or participated in acts relating to document fraud, DHS may take action. DHS will issue a Notice of Intent to Fine (NIF) when it intends to impose penalties. Persons who receive a NIF may request a hearing before an administrative law judge. If DHS does not receive a request for a hearing within 30 days, it will impose the penalty and issue a Final Order, which is final and cannot be appealed.

Individuals found by DHS or an administrative law judge to have violated section 274C of the INA may be ordered to cease and desist from such behavior and to pay a civil money penalty as follows:

1. First offense: Not less than \$375 and not more than \$3,200 for each fraudulent document that is the subject of the violation.
2. Subsequent offenses: Not less than \$3,200 and not more than \$6,500 for each fraudulent document that is the subject of the violation.

Part Five

Instructions for Recruiters and Referrers for a Fee

Under the INA, it is unlawful for an agricultural association, agricultural employer, or farm labor contractor to hire, or to recruit or refer for a fee, an individual for employment in the United States without complying with employment eligibility verification requirements. This provision applies to those agricultural associations, agricultural employers, and farm labor contractors who recruit persons for a fee and those who refer persons or provide documents or information about persons to employers in return for a fee.

This limited class of recruiters and referrers for a fee must complete Form I-9 when a person they refer is hired. Form I-9 must be fully completed within 3 business days of the date employment begins, or, in the case of an individual hired for less than 3 business days, at the time employment begins.

Recruiters and referrers for a fee may designate agents, such as national associations or employers, to complete the verification procedures on their behalf. If the employer is designated as the agent, the employer should provide the recruiter or referrer with a photocopy of

Form I-9. However, recruiters and referrers for a fee are still responsible for compliance with the law and may be found liable for violations of the law.

Recruiters and referrers for a fee must retain the Form I-9 for 3 years after the date the referred individual was hired by the employer. They must also make Forms I-9 available for inspection by a DHS, DOL, or OSC officer.

NOTE: This does not preclude DHS or DOL from obtaining warrants based on probable cause for entry onto the premises of suspected violators without advance notice.

The penalties for failing to comply with Form I-9 requirements and for requiring indemnification, as well as the prohibition against unlawful discrimination described in Part Four, apply to this limited class of recruiters and referrers for a fee.

NOTE: All recruiters and referrers for a fee are still liable for knowingly recruiting or referring for a fee aliens not authorized to work in the United States.

Part Six

E-Verify: The Web-based Verification Companion to Form I-9



Since verification of the employment authorization and identity of new hires became law in 1986, Form I-9 has been the foundation of the verification process. To improve the accuracy and integrity of this process, USCIS operates an electronic employment verification system called E-Verify.

E-Verify provides an automated link to federal databases to help employers determine the employment authorization of new hires. E-Verify is free to employers and is available in all 50 states, as well as U.S. territories except for American Samoa and the Commonwealth of the Northern Mariana Islands.

Employers who participate in the E-Verify Program must complete Form I-9 for each newly hired employee in the United States. E-Verify employers may accept any document or combination of documents on Form I-9, but if the employee chooses to present a List B and C combination, the List B (identity only) document must have a photograph.

After completing a Form I-9 for a new employee, E-Verify employers submit an electronic query that includes information from Sections 1 and 2 of Form I-9. After submitting the query, you will receive an automated response from the E-Verify system regarding the employment authorization of the individual. In some cases, E-Verify will provide a response indicating a tentative nonconfirmation of the employee's employment

authorization. This does not mean that the employee is necessarily unauthorized to work in the United States. Rather, it means that the system is unable to instantaneously confirm that employee's authorization to work. In the case of a tentative nonconfirmation, both you and the employee must take steps specified by E-Verify to resolve the status of the query within the prescribed time period.

You must also follow certain procedures when using E-Verify that were designed to protect employees from unfair employment actions. You must verify all new hires, both U.S. citizens and noncitizens, and may not verify selectively. You may not prescreen applicants for employment, check employees hired before the company became a participant in E-Verify, or reverify employees who have temporary employment authorization. You may not terminate or take other adverse action against an employee based on a tentative nonconfirmation.

E-Verify, along with Form I-9, protects jobs for authorized U.S. workers, improves the accuracy of wage and tax reporting, and helps U.S. employers maintain a legal workforce.

You can register online for E-Verify at <https://www.dhs.gov/E-Verify>, which provides instructions for completing the registration process. For more information about E-Verify, please contact USCIS at 1-888-464-4218, or visit the Web site listed above.

Part Seven

Some Questions You May Have About Form I-9

Employers should read these questions and answers carefully. They contain valuable information that, in some cases, is not found elsewhere in this manual.

Questions About the Verification Process

1. Q. Where can I obtain Form I-9 and the M-274, Handbook for Employers?

- A.** Both Form I-9 and the Handbook for Employers are available as downloadable PDFs at www.uscis.gov. Employers with no computer access can order USCIS forms by calling our toll-free number at 1-800-870-3676. Individuals can also get USCIS forms and information on immigration laws, regulations, and procedures by calling our National Customer Service Center toll-free at 1-800-375-5283.

2. Q. Do citizens and noncitizen nationals of the United States need to prove they are eligible to work?

- A.** Yes. While citizens and noncitizen nationals of the United States are automatically eligible for employment, they too must present the required documents and complete a Form I-9. U.S. citizens include persons born in the United States, Puerto Rico, Guam, the U.S. Virgin Islands, and the Northern Mariana Islands. U.S. noncitizen nationals are persons who owe permanent allegiance to the United States, which include those born in American Samoa, including Swains Island.

3. Q. Do I need to complete a Form I-9 for everyone who applies for a job with my company?

- A.** No. You should not complete Forms I-9 for job applicants. You only need to complete Form I-9 for individuals you actually hire. For purposes of this law, a person is “hired” when he or she begins to work for you.

4. Q. If someone accepts a job with my company but will not start work for a month, can I complete Form I-9 when the employee accepts the job?

- A.** Yes. The law requires that you complete Form I-9 only when the person actually begins working. However, you may complete the form earlier, as long as the person has been offered and has accepted the job. You may not use Form I-9 process to screen job applicants.

5. Q. I understand that I must complete a Form I-9 for anyone I hire to perform labor or services in return for wages or other remuneration. What is “remuneration”?

- A.** Remuneration is anything of value given in exchange for labor or services rendered by an employee, including food and lodging.

6. Q. Do I need to fill out Forms I-9 for independent contractors or their employees?

- A.** No. For example, if you contract with a construction company to perform renovations on your building, you do not have to complete Forms I-9 for that company’s employees. The construction company is responsible for completing Forms I-9 for its own employees. However, you must not knowingly use contract labor to circumvent the law against hiring unauthorized aliens.

7. Q. What should I do if the person I hire is unable to provide the required documents within 3 business days of the date employment begins?

- A.** If an employee is unable to present the required document or documents within 3 business days of the date employment begins, the employee must produce an acceptable receipt in lieu of a document listed on the last page of Form I-9. There are 3 types of acceptable receipts. See Question 25 below for a description of each receipt and the procedures required to fulfill Form I-9 requirements when an employee presents a receipt.

By having checked an appropriate box in Section 1, the employee must have indicated on or before the time employment began that he or she is already eligible to be employed in the United States.

NOTE: Employees hired for less than 3 business days cannot present a receipt, but instead must present the actual document(s) at the time employment begins.

8. Q. May I fire an employee who fails to produce the required documents within 3 business days?

- A. Yes. You may terminate an employee who fails to produce the required document or docu-

ments, or a receipt for a document, within three business days of the date employment begins. However, you must apply these practices uniformly to all employees.

9. Q. What happens if I properly complete and retain a Form I-9 and DHS discovers that my employee is not actually authorized to work?

- A. You cannot be charged with a verification violation. You will also have a good faith defense against the imposition of employer sanctions penalties for knowingly hiring an unauthorized alien, unless the government can show you had knowledge of the unauthorized status of the employee.

Questions About Documents

10. Q. May I specify which documents I will accept for verification?

- A. No. The employee may choose which document(s) he or she wants to present from the lists of acceptable documents. You must accept any document (from List A) or combination of documents (one from List B and one from List C) listed on Form I-9 and found in Part Eight of this Handbook that reasonably appear on their face to be genuine and to relate to the person presenting them. To do otherwise could be an unfair immigration-related employment practice in violation of the anti-discrimination provision in the INA. Individuals who look and/or sound foreign must not be treated differently in the recruiting, hiring, or verification process. For more information relating to discrimination during Form I-9 process, contact OSC at 1-800-255-8155 (employers) or 1-800-237-2515 (TDD) or visit OSC's Web site at www.usdoj.gov/crt/osc.

NOTE: An employer participating in the E-Verify Electronic Employment Eligibility Verification Program can only accept a List B document with a photograph.

11. Q. If an employee writes down an Alien Number or Admission Number when completing Section 1 of Form I-9, may I ask to see a document with that number?

- A. No. Although it is your responsibility as an employer to ensure that your employees fully complete Section 1 at the time employment begins, the employee is not required to present a document to complete this section.

When you complete Section 2, you may not ask to see a document with the employee's Alien Number or Admission Number or otherwise specify which document(s) an employee may present.

12. Q. What is my responsibility concerning the authenticity of document(s) presented to me?

- A. You must examine the document(s), and if they reasonably appear on their face to be genuine and to relate to the person presenting them, you must accept them. To do otherwise could be an unfair immigration-related employment practice. If the document(s) do not reasonably appear on their face to be genuine or to relate to the person presenting them, you must not accept them.

13. Q. My employee has presented a U.S. passport card. Is this an acceptable document?

- A. Yes. The passport card is a wallet-size document issued by the U.S. Department of State. While its permissible uses for international travel are more limited than the U.S. passport book, the passport card is a fully valid passport that attests to the U.S. citizenship and identity of the bearer. As such, the passport card is considered

a “passport” for purposes of Form I-9 and has been included on List A of the Lists of Acceptable Documents on Form I-9.

14. Q. Why was documentation for citizens of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI) added to the List of Acceptable Documents on Form I-9?

- A. Under the Compacts of Free Association between the United States and FSM and RMI, most citizens of FSM and RMI are eligible to reside and work in the United States as nonimmigrants. The compact also eliminated the need for citizens of these two countries to obtain employment authorization cards to work in the United States. Now FSM and RMI citizens can show a valid passport with a Form I-94 or I-94A to satisfy Form I-9 requirements.

15. Q. There are 3 documents on Form I-9 that are listed on both List B and List C. Does this mean that my employee may present 1 of those documents to prove both identity and employment authorization?

- A. Three documents can be found in both List B and List C: a Native American tribal document, the U.S. Citizen Identification Card (Form I-197) and the Identification Card for the Use of Resident Citizen in the United States (Form I-179). If an employee presents any one of these documents, it establishes both identity and employment authorization on Form I-9, so you do not need any other documents from the employee to complete Section 2 of Form I-9.

16. Q. An employee has attested to being a U.S. citizen or U.S. noncitizen national on Section 1 of Form I-9, but has presented me with an I-551, Permanent Resident Card, or “green card.” Another employee has attested to being a lawful permanent resident but has presented a U.S. passport. Should I accept these documents?

- A. In these situations, you should first ensure that the employee understood and properly completed the Section 1 attestation of status. If the employee made a mistake and corrects the attestation, he or she should initial and date the correction, or complete a new Form I-9. If the

employee confirms the accuracy of his or her initial attestation, you should not accept a “green card” from a U.S. citizen or a U.S. passport from an alien. Although you are not expected to be an immigration law expert, both documents in question are inconsistent with the status attested to and are, therefore, not documents that reasonably relate to the person presenting them.

17. Q. May I accept an expired document?

- A. No. Expired documents are no longer acceptable for Form I-9. However, you may accept Employment Authorization Documents (I-766) and Permanent Resident Cards (Form I-551) that appear to be expired on their face, but have been extended under the limited circumstances, described in Part 2, Section 2, Table 2.

Individuals under the Temporary Protected Status (TPS) Program whose Employment Authorization Documents appear to be expired but were actually automatically extended via Federal Register notice may continue to work based on their Employment Authorization Documents during the automatic extension period specified in the Federal Register notice announcing the extension.

NOTE: Some documents, such as birth certificates and Social Security cards, do not contain an expiration date and should be treated as unexpired.

18. Q. How can I tell if a DHS-issued document has expired? If it has expired, should I reverify the employee?

- A. Some DHS-issued documents, such as older versions of the Alien Registration Receipt Card (Form I-551), do not have expiration dates, but are still acceptable for Form I-9 purposes. However, all subsequent Permanent Resident Cards (I-551s) contain 2-year or 10-year expiration dates. You should not reverify an expired Alien Registration Receipt Card/Permanent Resident Card (Form I-551). Other DHS-issued documents, such as the Employment Authorization Document (Form I-766) also have expiration dates. These dates can be found either on the face of the document or on a sticker attached to the back of the document. All Employment Authorization Documents must be reverified upon expiration.

19. Q. Some employees are presenting me with Social Security cards that have been laminated. May I accept such cards as evidence of employment authorization?

- A. It depends. You may not accept a laminated Social Security card as evidence of employment authorization if the card states on the back “not valid if laminated.” Lamination of such cards renders them invalid. Metal or plastic reproductions of Social Security cards are not acceptable.

20. Q. Some employees have presented Social Security Administration printouts with their name, Social Security number, date of birth and their parents’ names as proof of employment authorization. May I accept such printouts in place of a Social Security card as evidence of employment authorization?

- A. No. Only a person’s official Social Security card is acceptable.

21. Q. What should I do if an employee presents a Social Security card marked “NOT VALID FOR EMPLOYMENT,” but states that he or she is now authorized to work?

- A. You should ask the employee to provide another document to establish his or her employment authorization, since such Social Security cards do not establish this and are not acceptable documents for Form I-9. Such an employee should go to the local SSA office with proof of his or her lawful employment status to be issued a Social Security card without employment restrictions.

22. Q. May I accept a photocopy of a document presented by an employee?

- A. No. Employees must present original documents. The only exception is that an employee may present a certified copy of a birth certificate.

23. Q. I noticed on Form I-9 that under List A there are two spaces for document numbers and expiration dates. Does this mean I have to see two List A documents?

- A. No. One of the documents found in List A is a foreign passport with an attached Form I-94 or I-94A, bearing the same name as the passport and containing endorsement of the alien’s nonimmigrant status, if that status authorizes

the alien to work for the employer. Form I-9 provides space for you to record the document number and expiration date for both the passport and Form I-94 or I-94A.

24. Q. When I review an employee’s identity and employment authorization documents, should I make copies of them?

- A. If you participate in E-Verify and the employee presents a document used as part of the Photo Screening Tool (currently the Permanent Resident Card (Form I-551) and the Employment Authorization Document (Form I-766)), you must retain a photocopy of the document he or she presents. If you do not participate in E-Verify, you are not required to make photocopies of documents. However, if you wish to make photocopies of documents other than those used in E-Verify, you should do so for all employees, and you should retain each photocopy with Form I-9. Photocopies must not be used for any other purpose. Photocopying documents does not relieve you of your obligation to fully complete Section 2 of Form I-9, nor is it an acceptable substitute for proper completion of Form I-9 in general.

25. Q. When can employees present receipts for documents in lieu of actual documents establishing employment authorization?

- A. The “receipt rule” is designed to cover situations in which an employee is employment authorized at the time of initial hire or reverification, but he or she is not in possession of a document listed on page 5 of Form I-9. Receipts showing that a person has applied for an initial grant of employment authorization or for renewal of employment authorization are not acceptable.

An individual may present a receipt in lieu of a document listed on Form I-9 to complete Section 2 of Form I-9. The receipt is valid for a temporary period. There are three different documents that qualify as receipts under the rule:

1. A receipt for a replacement document when the document has been lost, stolen, or damaged. The receipt is valid for 90 days, after which the individual must present the

replacement document to complete Form I-9.

NOTE: This rule does not apply to individuals who present receipts for new documents following the expiration of their previously held document.

2. A Form I-94 or Form I-94A containing a temporary I-551 stamp and a photograph of the individual, which is considered a receipt for the Permanent Resident Card (Form I-551). The individual must present Form I-551 by the expiration date of the temporary I-551 stamp; or within one year from the date of issuance of Form I-94 or I-94A if the I-551 stamp does not contain an expiration date.
3. A Form I-94 or I-94A containing an unexpired refugee admission stamp. This is considered a receipt for either an Employment Authorization Document (Form I-766) or a combination of an unrestricted Social Security card and List B document. The employee must present acceptable documentation to complete Form I-9 within 90 days after the date of hire or, in the case of reverification, the date employment authorization expires. For more information on receipts, see Table 1 in Part 2, Section 2.

26. Q. My employee has applied for a new Employment Authorization Document. When my employee's current Employment Authorization Document expires, how can I satisfy Form I-9 reverification requirement while the application is pending with USCIS? Is the USCIS receipt notice (Form I-797) covered by Form I-9 receipt rule?

- A. An employee with temporary employment authorization and holding an Employment Authorization Document (I-766) should apply for a new card at least 90 days prior to the expiration of his or her current document. DHS regulations provide that if it does not adjudicate the application for employment authorization within 90 days, it will grant an interim Employment Authorization Document valid for a period not to exceed 240 days. If your employee applied for a new card at least 90 days prior to the expiration of his or her current card but is nearing the end of the 90-day processing

period without a decision from USCIS, instruct your employee to inquire about an interim Employment Authorization Document with the local USCIS office or by calling the National Customer Service Center at (800) 375-5283 or (800) 767-1833 (TTY). Upon expiration of your employee's current Employment Authorization Document, he or she should be able to present either a new or interim card, or a List C document, to satisfy Form I-9 reverification requirements. In this case, the USCIS receipt notice (Form I-797) is not an acceptable receipt for Form I-9 purposes.

27. Q. My employee has presented a foreign passport with a Form I-94 or I-94A (List A, Item 5) indicating an employment-authorized nonimmigrant status. How do I know if this nonimmigrant status authorizes the employee to work?

- A. You, as the employer, likely have submitted a petition to USCIS on a nonimmigrant worker's behalf. However, there are some exceptions to this rule:
 1. You made an offer of employment to a Canadian passport holder who entered the United States under NAFTA with an offer letter from your company. This nonimmigrant worker will have a Form I-94 or Form I-94A indicating TN status, and may present either a passport or a valid Canadian driver's license in combination with Form I-94 or Form I-94A.
 2. A student working in on-campus employment or participating in curricular practical training. (See questions 28 and 29.)
 3. A J-1 exchange visitor. (See question 34.)

Most employees who present a foreign passport in combination with a Form I-94 or I-94A (List A, Item 5) are restricted to work for their petitioning employer. If you did not submit a petition for an employee who presents such documentation, then that nonimmigrant worker is not usually authorized to work for you.

The table below lists the nonimmigrant classifications that indicate that an employee is authorized to work incident to status. Such

classifications will be indicated on Form I-94 or I-94A.

A-1, A-2	Foreign Government Officials or employees of A-1 or A-2
A-3	Employee of an A-1, A-2
E-1, E-2, E-3	Treaty Trader/Investors
G-1, G-2, G-3, G-4	Foreign representatives or officers of an international organization
G-5	Employee of a G-1, G-2, G-3, or G-4
H-1B	Specialty Occupations, DOD workers
H-1C	Nurses in health professional shortage areas
H-2A	Temporary agricultural workers
H-2B	Temporary workers: skilled and unskilled
H-3	Trainees
J-1	Exchange visitors
L-1	Intra-company transfers
NATO-1 to NATO-6	Representatives to NATO
NATO-7	Employee of NATO representative
P-1	Individual or team athletes, entertainment groups, or artists
Q-1	International cultural exchange visitors
R-1	Religious workers
TN	NAFTA Trade visas for Canadians or Mexicans

28. Q. What document(s) can I accept from an employee who has applied for an extension of Optional Practical Training as a STEM student?

- A. The expired Employment Authorization Document (Form I-766), the USCIS receipt notice showing a timely filing of the STEM extension application (Form I-797, Notice of Action) and a Form I-20 updated to show that the Designated School Official (DSO) has recommended the extension. This combination of documents satisfies Form I-9 requirements for 180 days (or less if the application for extension is denied beforehand). If the 17-month STEM extension is approved, the student should receive a new card reflecting the extension within the 180-day period.

29. Q. My employee is an F-1 student who was working for me as part of her Optional Practical Training. I have now submitted a petition on her behalf for an H-1B visa. Her Employment

Authorization Document has expired and I must reverify her employment authorization. What documents may she present?

- A. The expired Employment Authorization Document (Form I-766), combined with a Form I-20 endorsed to show that the student's employment authorization is still valid, and the USCIS receipt notice (Form I-797, Notice of Action), showing receipt of the H-1B petition. This combination of documents satisfies Form I-9 requirements until September 30 of each year, or until the date the petition is rejected, denied, or withdrawn. If the receipt notice has not yet been issued, the expired card and Form I-20 are sufficient. This combination of documents satisfies Form I-9 until the expiration date noted on the Form I-20, but not later than September 30. If the student presents Form I-20 without a receipt notice, the employer must reverify upon the expiration date noted on the Form I-20. The student may present another Form I-20 indicating continued employment authorization to satisfy the reverification requirement.

30. Q. My employee's Employment Authorization Document (Form I-766), expired and the employee now wants to show me a Social Security card. Do I need to see a current DHS document?

- A. No. During both initial verification and reverification, an employee must be allowed to choose what documentation to present from Form I-9 lists of acceptable documents. If an employee presents an unrestricted Social Security card upon reverification, the employee does not also need to present a current DHS document. However, if an employee presents a restricted Social Security card upon reverification, you must reject the restricted Social Security card, since it is not an acceptable Form I-9 document, and ask the employee to choose different documentation from List A or List C of Form I-9.

31. Q. Can DHS double-check the status of an alien I hired, or "run" his or her number (typically an Alien Number or Social Security number) and tell me whether it's good?

- A. DHS cannot double-check a number for you, unless you participate in E-Verify, which con-

firm the employment authorization of your newly hired employees. For more information about this program, see Part Six. You may also call DHS at 1-888-464-4218 or visit www.dhs.gov/E-Verify. You also may contact DHS if you have a strong and articulable reason to believe documentation may not be valid, in which case ICE may investigate the possible violation of law.

32. Q. My employee presented me with a document issued by INS rather than DHS. Can I accept it?

- A. Effective March 1, 2003, the functions of the former INS were transferred to three agencies within the new DHS: USCIS, CBP and ICE. Most immigration documents acceptable for Form I-9 use are issued by USCIS. Some documents issued by the former INS before March 1, 2003, such as Permanent Resident Cards, may still be within their period of validity. If otherwise acceptable, a document should not be rejected because it was issued by INS rather than DHS. It should also be noted that INS documents may bear dates of issuance after March 1, 2003, as it took some time in 2003 to modify document forms to reflect the new USCIS identity.

33. Q. What should I do if an employee presents a Form I-20 and says the document authorizes her to work?

- A. Form I-20 is evidence of employment authorization in two specific situations:
1. The employee works on the campus of the school where he or she is an F-1 student for an employer that provides direct student services, or at an off-campus location that is educationally affiliated with the school's

established curriculum or related to contractually funded research projects at the post-graduate level where the employment is an integral part of the student's educational program.

2. The employee is an F-1 student who has been authorized by the Designated School Official (DSO) to participate in a curricular practical training program that is an integral part of an established curriculum (e.g., alternative work/study, internship, cooperative education, or other required internship offered by sponsoring employers through cooperative agreements with the school). Form I-20 must be endorsed by the DSO for curricular practical training, and list the employer offering the practical training, and the dates the student will be employed.

In both situations, Form I-20 must accompany a valid Form I-94 or I-94A indicating F-1 status. When combined with a foreign passport, the documentation is acceptable for List A of Form I-9.

34. Q. May I accept Form DS-2019 as proof of employment authorization?

- A. Form DS-2019 can be used only by a J-1 exchange visitor for employment when such employment is part of his or her program. For J-1 students, the Responsible Officer of the school may authorize employment in writing. Form DS-2019 must accompany a valid Form I-94 or I-94A. When combined with a foreign passport, the documentation is acceptable for List A of Form I-9.

Questions About Completing and Retaining Form I-9

35. Q. When do I fill out Form I-9 if I hire someone for less than 3 business days?

- A. Both you and the employee must complete Sections 1 and 2 of Form I-9 at the time of hire. This means Form I-9 must be fully completed when the person starts to work.

36. Q. What should I do if I rehire a person who previously filled out a Form I-9?

- A. If the employee's Form I-9 is a version that is currently acceptable, you rehire the person within 3 years of the date that Form I-9 was originally completed, and the employee is still authorized to work, you may reverify the employee in Section 3 of the original Form I-9.

If the version of Form I-9 that you used for the employee's original verification is no longer

valid, you must complete Section 3 of the current Form I-9 upon reverification and attach it to the employee's original Form I-9.

37. Q. What should I do if I need to reverify a Form I-9 for an employee who filled out an earlier version of the form?

- A. The current version of Form I-9 can be found at www.uscis.gov. To reverify an employee who filled out an earlier version of the form, you may line through any outdated information on the form and initial and date any updated information. You may also choose, instead, to complete a new Form I-9.

If you used a version of Form I-9 when you originally verified the employee that is no longer valid, the employee must provide any document(s) he or she chooses from the current Lists of Acceptable Documents, which you must enter in Section 3 of the current version of Form I-9.

38. Q. Do I need to complete a new Form I-9 when one of my employees is promoted within my company or transfers to another company of-fice at a different location?

- A. No. You do not need to complete a new Form I-9 for employees who have been promoted or transferred.

39. Q. What do I do when an employee's employment authorization expires?

- A. You will need to reverify on Form I-9 to continue to employ the person. Reverification must occur no later than the date that employment authorization (or evidence thereof) expires. The employee must present a document from either List A or List C that shows either an extension of his or her initial employment authorization or new employment authorization. You must review this document and, if it reasonably appears on its face to be genuine and to relate to the person presenting it, record the document title, number, and expiration date (if any), in the Updating and Reverification Section (Section 3), and sign in the appropriate space.

If the version of Form I-9 that you used for the employee's original verification is no longer valid, you must complete Section 3 of the cur-

rent Form I-9 upon reverification and attach it to the original Form I-9.

You may want to establish a calendar call-up system for employees whose employment authorization (or evidence of employment authorization) will expire in the future.

You may not reverify an expired U.S. passport or passport card, an Alien Registration Receipt Card/Permanent Resident Card (Form I-551), or a List B document that has expired.

NOTE: You cannot refuse to accept a document because it has a future expiration date. You must accept any document (from List A or List C) listed on Form I-9 that on its face reasonably appears to be genuine and to relate to the person presenting it. To do otherwise could be an unfair immigration-related employment practice in violation of the anti-discrimination provision of the INA.

If an employee's employment authorization document expires before the employee receives a new one, the employee may take the application receipt to a local USCIS office to receive temporary employment authorization if it has been more than 90 days since the employee applied for the new card.

40. Q. Can I avoid reverifying an employee on Form I-9 by not hiring persons whose employment authorization has an expiration date?

- A. You cannot refuse to hire persons solely because their employment authorization is temporary. The existence of a future expiration date does not preclude continuous employment authorization for an employee and does not mean that subsequent employment authorization will not be granted. In addition, consideration of a future employment authorization expiration date in determining whether an alien is qualified for a particular job may be an unfair immigration-related employment practice in violation of the anti-discrimination provision of the INA.

41. Q. As an employer, do I have to fill out all the Forms I-9 myself?

- A. No. You may designate someone to fill out Forms I-9 for you, such as a personnel officer, foreman, agent or anyone else acting in your interest, such as a notary public. Please note that if someone else fills out Form I-9 on your behalf, they must

carry out full Form I-9 responsibilities. For example, it is not acceptable for a notary public to view employment authorization and identity documents, but leave Section 2 for you to complete. The person who views an employee's employment authorization documents should also complete and sign Section 2 on your behalf. However, you are still liable for any violations of the employer sanctions laws.

42. Q. Can I contract with someone to complete Forms I-9 for my business?

- A.** Yes. You can contract with another person or business to verify employees' identities and employment authorization and to complete Forms I-9 for you. However, you are still responsible for the contractor's actions and are liable for any violations of the employer sanctions laws.

43. Q. I use a professional employer organization (PEO) that "co-employs" my employees. Am I responsible for Form I-9 compliance for these employees or is the PEO?

- A.** "Co-employment" arrangements can take many forms. As an employer, you continue to be responsible for compliance with Form I-9 requirements.

If the arrangement into which you have entered is one where an employer-employee relationship also exists between the PEO and the employee (e.g., the employee performs labor or services for the PEO), the PEO would be considered an employer for Form I-9 purposes and:

1. The PEO may rely upon the previously completed Form I-9 at the time of initial hire for each employee continuing employment as a co-employee of you and the PEO, or
2. The PEO may choose to complete new Forms I-9 at the time of co-employment.

If more co-employees are subsequently hired, only one Form I-9 must be completed by either the PEO or the client. However, both you and your PEO are responsible for complying with Form I-9 requirements, and DHS may impose penalties on either party for failure to do so. Penalties for verification violations, if any, may vary depending on:

1. A party's control or lack of control over Form I-9 process,
2. Size of the business,
3. Good faith in complying with Form I-9 requirements,
4. The seriousness of the party's violation,
5. Whether or not the employee was an unauthorized alien,
6. The history of the party's previous violations and
7. Other relevant factors.

44. Q. As an employer, can I negotiate my responsibility to complete Forms I-9 in a collective bargaining agreement with a union?

- A.** Yes. However, you are still liable for any violations of the employer sanctions laws. If the agreement is for a multi-employer bargaining unit, certain rules apply. The association must track the employee's hire and termination dates each time the employee is hired or terminated by an employer in the multi-employer association.

45. Q. What are the requirements for retaining Forms I-9?

- A.** If you are an employer, you must retain Forms I-9 for 3 years after the date employment begins or 1 year after the date the person's employment is terminated, whichever is later. If you are an agricultural association, agricultural employer, or farm labor contractor, you must retain Forms I-9 for 3 years after the date employment begins for persons you recruit or refer for a fee.

46. Q. Will I get any advance notice if a DHS or DOL officer wishes to inspect my Forms I-9?

- A.** Yes. The officer will give you at least 3 days' (72 hours) advance notice before the inspection. If it is more convenient for you, you may waive the 3-day notice. You may also request an extension of time to produce the Forms I-9. The DHS or DOL officer will not need to show you a subpoena or a warrant at the time of the inspection.

NOTE: This does not preclude DHS or DOL from obtaining warrants based on probable cause for entry onto the premises of suspected violators without advance notice.

Failure to provide Forms I-9 for inspection is a violation of the employer sanctions laws and could result in the imposition of civil money penalties.

47. Q. How does OSC obtain information necessary to determine whether an employer has committed an unfair immigration-related employment practice under the anti-discrimination provision of the INA?

- A. OSC will notify you in writing to initiate an investigation, request information and documents, and interview your employees. If you refuse to cooperate, OSC can obtain a subpoena to compel you to produce the information requested or to appear for an investigative interview.

48. Q. Do I have to complete Forms I-9 for Canadians or Mexicans who entered the United States under the North American Free Trade Agreement (NAFTA)?

- A. Yes. You must complete Forms I-9 for all employees. NAFTA entrants must show identity and employment authorization documents just like all other employees.

49. Q. If I acquire a business, can I rely on Forms I-9 completed by the previous owner/employer?

- A. Yes. However, you also accept full responsibility and liability for all Forms I-9 completed by the previous employer relating to individuals who are continuing in their employment.

50. Q. If I am a recruiter or referrer for a fee, do I have to fill out Forms I-9 on persons whom I recruit or refer?

- A. No, with 3 exceptions: Agricultural associations, agricultural employers, and farm labor contractors are still required to complete Forms I-9 on all individuals who are recruited or referred for a fee. However, all recruiters and referrers for a fee must still complete Forms I-9 for their own employees hired after November 6, 1986. Also, all recruiters and referrers for a fee are still liable for knowingly recruiting or referring for a fee aliens

not authorized to work in the United States and must comply with federal anti-discrimination laws.

51. Q. Can I complete Section 1 of Form I-9 for an employee?

- A. Yes. You may help an employee who needs assistance in completing Section 1 of Form I-9. However, you must also complete the "Preparer/Translator Certification" block. The employee must still sign the certification block in Section 1.

52. Q. If I am self-employed, do I have to fill out a Form I-9 on myself?

- A. A self-employed person does not need to complete a Form I-9 on his or her own behalf unless the person is an employee of a business entity, such as a corporation or partnership. If the person is a business entity, he or she, and any authorized employees, will have to complete Form I-9.

53. Q. I have heard that some state employment agencies can certify that people they refer are authorized to work. Is that true?

- A. Yes. State employment agencies may choose to verify the employment authorization and identity of individuals they refer for employment on Form I-9. In such cases, they must issue a certificate to the employer within 21 business days of the date that the referred individual is hired. If one of these agencies refers potential employees to you with a job order or other appropriate referral form, and the agency sends you a certification within 21 business days of the referral, you do not have to check documents or complete a Form I-9 if you hire that person. However, you must review the certification to ensure that it relates to the person hired and observe the person sign the certification. You must also retain the certification as you would a Form I-9 and make it available for inspection, if requested. You should check with your state employment agency to see if it provides this service and become familiar with its certification document.

Questions About Avoiding Discrimination

54. Q. How can I avoid discriminating against certain employees while still complying with this law?

A. You should:

1. Treat employees equally when recruiting, hiring, and terminating them, and when verifying their employment authorization and completing Form I-9.
2. Allow all employees, regardless of national origin or immigration status, to choose which document or combination of documents they want to present from the Lists of Acceptable Documents on the back of Form I-9. For example, you may not require an employee to present an employment authorization document issued by DHS if he or she chooses to present a driver's license and unrestricted Social Security card.

You should not:

1. Set different employment eligibility verification standards or require that different documents be presented by employees because of their national origin or citizenship status. For example, you cannot demand that non-U.S. citizens present DHS-issued documents such as "green cards."
2. Ask to see a document with an employee's Alien or Admission Number when completing Section 1 of Form I-9.
3. Request to see employment authorization verification documents before hire or completion of Form I-9 because someone looks or sounds "foreign," or because someone states that he or she is not a U.S. citizen.
4. Refuse to accept a valid employment authorization document, or refuse to hire an individual, because the document has a future expiration date.
5. Reverify the employment authorization of a lawful permanent resident (LPR) whose "green card" has expired after the LPR is hired.
6. Request that, during reverification, an employee present a specific employment au-

thorization document. Employees are free to choose any document either from List A or from List C of Form I-9.

7. Limit jobs to U.S. citizens unless U.S. citizenship is required for the specific position by law; regulation; executive order; or federal, state or local government contract.

NOTE: On an individual basis, you may legally prefer a U.S. citizen over an equally qualified alien to fill a specific position, but you may not adopt a blanket policy of always preferring citizens over noncitizens.

55. Q. Who is protected from discrimination on the basis of citizenship status or national origin under the anti-discrimination provision of the INA?

- #### A.
- All U.S. citizens, lawful permanent residents, temporary residents, asylees, and refugees are protected from citizenship status discrimination, except for those lawful permanent residents who have failed to make a timely application for naturalization after they become eligible.

You cannot discriminate against any employment authorized individual in hiring, firing, or recruitment because of his or her national origin.

Similarly, all employment-authorized individuals are protected from document abuse.

56. Q. Can I be charged with discrimination if I contact DHS about a document presented to me that does not reasonably appear to be genuine and relate to the person presenting it?

- #### A.
- No. If you are presented with documentation that does not reasonably appear to be genuine or to relate to the employee, you cannot accept that documentation. While you are not legally required to inform DHS of such situations, you may do so if you choose. However, DHS is unable to provide employment eligibility verification services other than through its E-Verify program. If you treat all employees equally and do not single out employees who look or sound foreign for closer scrutiny, you cannot be charged with discrimination.

57. Q. I recently hired someone who checked the fourth box in the immigration status attestation section on Section 1 of Form I-9, indicat-

ing that he is an alien. However, he informed me that he does not have an employment authorization expiration date, which appears to be required by the form. What should I do?

- A. Refugees and asylees, as well as some other classes of alien such as certain nationals of the Federated States of Micronesia, the Republic of the Marshall Islands, and Palau, are authorized to work because of status. Such aliens may not possess an Employment Authorization Document (I-766), yet can still establish employment authorization and identity by presenting other documentation, including a driver's license and an unrestricted Social Security card, or a Form I-94 or I-94A indicating their work-authorized status. Such individuals should write "N/A" in Section 1 next to the alien box. The refusal to hire work-authorized aliens because of their immigration status, or because they are unable to provide an expiration date on Form I-9, is a violation of the anti-discrimination provision in the INA.

58. Q. What should I do if I have further questions regarding the INA's anti-discrimination provision and Form I-9 verification process?

- A. Call the OSC employer hotline with questions:
1-800-255-8155
1-800-362-2735 (TDD); or
Visit the OSC Web site, <http://www.usdoj.gov/crt/osc/>, for more information.

59. Q. What if someone believes they have experienced discrimination under the INA's anti-discrimination provision?

- A. Call the OSC employee hotline:
1-800-255-7688
1-800-237-2515 (TDD); or
Visit the OSC Web site, <http://www.usdoj.gov/crt/osc/>, for more information and to download a charge form.

60. Q. What if someone believes he or she has experienced discrimination under Title VII of the Civil Rights Act of 1964?

- A. Call the EEOC:
1-800-USA-EEOC
1-800-669-6820 (TTY); or
Visit EEOC's Web site at <http://www.eeoc.gov>.

Questions About Employees Hired Before November 7, 1986

61. Q. Does this law apply to my employees if I hired them before November 7, 1986?

- A. No. You are not required to complete Forms I-9 for employees hired before November 7, 1986.

NOTE: This "grandfather" status does not apply to seasonal employees or to employees who change employers within a multi-employer association.

62. Q. Will I be subject to employer sanctions penalties if an employee I hired before November 7, 1986, is an illegal alien?

- A. No. You will not be subject to employer sanctions penalties for retaining an illegal alien in your workforce if the alien was hired before November 7, 1986. However, the fact that an illegal alien was on your payroll before November 7, 1986, does not give him or her any right to remain in the United States. Unless the alien obtains permission from DHS to remain in the United States, he or she is subject to apprehension and removal.

Questions About Different Versions of Form I-9

63. Q. Is Form I-9 available in different languages?

- A. Form I-9 is available in English and Spanish. However, only employers in Puerto Rico may use

the Spanish version to meet the verification and retention requirements of the law. Employers in the United States and other U.S. territories may use the Spanish version as a translation guide for Spanish-speaking employees, but the English version must be completed and retained in the employer's records. Employees may also use or

ask for a preparer/translator to assist them in completing the form.

64. Q. Are employers in Puerto Rico required to use the Spanish version of Form I-9?

- A. No. Employers in Puerto Rico may use either the Spanish or the English version of Form I-9 to verify new employees.

65. Q. May I continue to use earlier versions of Form I-9?

- A. No, employers must use the current version of Form I-9. All previous editions of Form I-9, in English or Spanish, are no longer valid.

66. Q. Where do I get the Spanish version of Form I-9?

- A. You may download the Spanish version of this form from the USCIS Web site at www.uscis.gov. Click on Immigration Forms and scroll down to Form I-9. For employers without internet access, you may call the USCIS Forms Center toll-free at 1-800-870-3636.

Questions about Military Installations

67. Q. I know that a valid unexpired military ID card is a valid List B identification document. Is a military ID card ever acceptable as List A evidence of both identity and employment authorization?

- A. Yes, but only if the employer is the U.S. military and the Form I-9 is completed in the context of military enlistment itself. In the case of an individual lawfully enlisted in the U.S. Armed Forces, a valid, unexpired military ID card may be accepted as a List A document by the Armed Forces only. No other employer may accept a military ID card as a List A document.

Part Eight

Acceptable Documents for Verifying Employment Authorization and Identity

The following documents have been designated as acceptable for Form I-9 to establish an employee's employment authorization and identity. The comprehensive Lists of Acceptable Documents can be found on the next pages of this Handbook and on the back of Form I-9. Samples of many of the acceptable documents appear on the following pages.

To establish both identity and employment authorization, a person must present a document from List A or one document from List B, which establishes identity, and one document from List C, which establishes employment authorization.

If a person is unable to present the required document(s) within 3 business days of the date employment begins, he or she must present (within 3 business days) a receipt. The person then must present the actual document when the receipt period ends. The person must have indicated on or before the time employment began,

by having checked an appropriate box in Section 1, that he or she is already authorized to be employed in the United States. Receipts showing that a person has applied for an initial grant of employment authorization, or for renewal of employment authorization, are not acceptable. Receipts are also not acceptable if employment is for less than 3 business days.

The following pages show the most recent versions and/or representative images of some of the various acceptable documents on the list, which can assist you in judging the validity of a document presented to you. These pages are not, however, comprehensive because, in some cases, many variations of a particular document exist and new versions may be published subsequent to the publication date of this Handbook. Keep in mind that, because USCIS does not expect you to be a document expert, you are only expected to reject documents that do not reasonably appear to be genuine or to relate to the person presenting them. For a list of receipts acceptable for Form I-9, see pages 7-9.

1. U.S. Passport or Passport Card
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa (MRIV)
4. Employment Authorization Document (Card) that contains a photograph (Form I-766)
5. In the case of a nonimmigrant alien authorized to work for a specific employer incident to status, a foreign passport

with Form I-94 or Form I-94A bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, as long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form

6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with 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

LIST B: Documents That Establish Identity

All documents must be unexpired.

For individuals 18 years of age or older:

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
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
3. School ID card with a photograph
4. Voter's registration card

5. U.S. military card or draft record
6. Military dependent's ID card
7. U.S. Coast Guard Merchant Mariner Card
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

LIST C: Documents That Establish Employment Authorization

All documents must be unexpired.

1. U.S. Social Security account number card other than one that specifies on the face that the issuance of the card does not authorize employment in the United States.

NOTE: A copy (such as a metal or plastic reproduction) is not acceptable.

2. Certification of Birth Abroad issued by the U.S. Department of State (Form FS-545)
3. Certification of Report of Birth issued by the U.S. Department of State (Form DS-1350)

4. 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
5. Native American tribal document
6. U.S. Citizen Identification Card (Form I-197)
7. Identification Card for Use of Resident Citizen in the United States (Form I-179)
8. Employment authorization document issued by DHS (other than those listed under List A)

U.S. Passport

The following illustrations in this Handbook do not necessarily reflect the actual size of the documents.

Current U.S. Passport cover and open



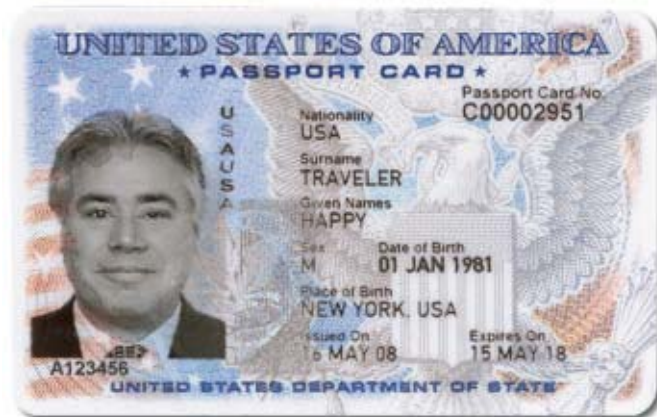
Older U.S. Passport cover and open



U.S. Passport Card

The U.S. Department of State began producing the passport card in July 2008. The passport card is a wallet-size card that can only be used for land and sea travel

between the United States and Canada, Mexico, the Caribbean, and Bermuda.

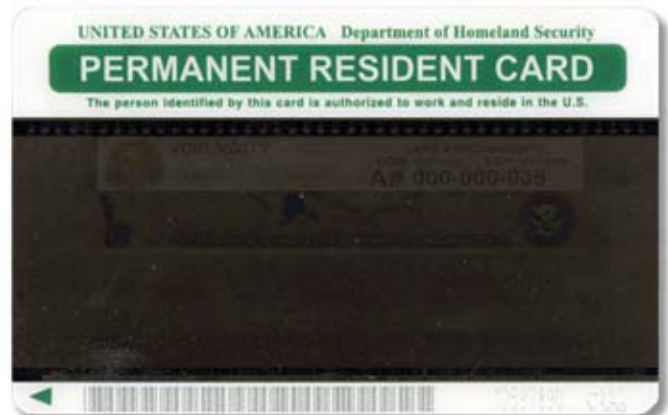


Passport Card front and back

Permanent Resident Card (Form I-551)

The Permanent Resident Card shows the DHS seal and contains a detailed hologram on the front of the card. Each card is personalized with an etching showing the bearer's photo, name, fingerprint, date of birth, alien registration number, card expiration date, and card number. Also in circulation are older Resident Alien cards,

issued by the U.S. Department of Justice, Immigration and Naturalization Service, which do not have expiration dates and are valid indefinitely. These cards are peach and show the Department of Justice seal, and the bearer's fingerprint and photograph.

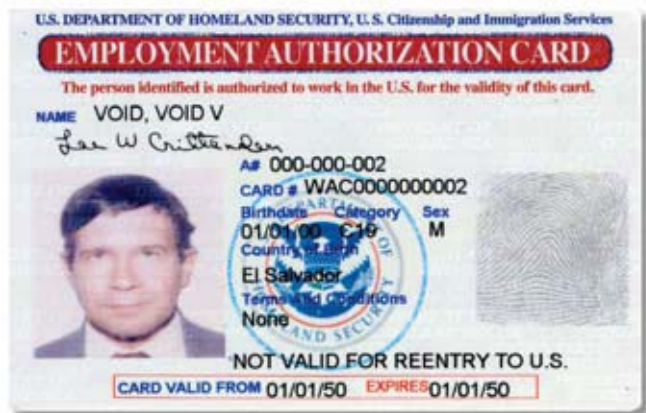


Current Permanent Resident Card (Form I-551) front and back

Employment Authorization Document (Form I-766)

USCIS issues the Employment Authorization Document to aliens granted temporary employment authorization in the United States. The card contains the bearer's photograph, fingerprint, card number, Alien number, birthdate,

and signature, along with a holographic film and the DHS seal. The expiration date is located at the bottom of the card.



Employment Authorization Document (Form I-766) front and back

Form I-94/I-94A Arrival/Departure Record

CBP issues an arrival-departure record to nonimmigrant aliens and other alien categories. This document indicates the bearer's immigration status, the date that the status was granted, and when the status expires. The immigration status notation within the stamp on the card varies according to the status granted, e.g., L-1, F-1, J-1. The Form I-94 has a handwritten date and status, and the Form I-94A has a computer-generated date and status.

Both may be presented with documents that Form I-9 specifies are valid only when Form I-94 or I-94A also is presented, such as the foreign passport, Form DS-2019, or Form I-20.

Form I-9 provides space for you to record the document number and expiration date for both the passport and Form I-94 or I-94A.

Departure Number OMB No. 1651-0111

626633123 12

I-94
Departure Record

ADMITTED
ATL
JUN 25 2006
Class
Unit
April 23, 2009

14 Family Name
SAMPLE

15 First (Given) Name
JANE

16 Birth Date (Day/Mo/Yr)
23 03 68

17 Country of Citizenship
NEW ZEALAND

CBP Form I-94 (10/04)

See Other Side STAPLE HERE

Form I-94 Arrival/Departure Record

Departure Number

813106636 11

Department of
Homeland Security
CBP I-94A (11/04)
Departure Record

L1
12345
ADMITTED
USA
09/17/2007
Class
Unit

Family Name
SAMPLE

First (Given) Name
AHMET

Birth Date (Day Mo Yr)
22 12 50

Country of Citizenship
PAKISTAN

20041122 US-VISIT 20050207 MULTIPLE

See Other Side STAPLE HERE

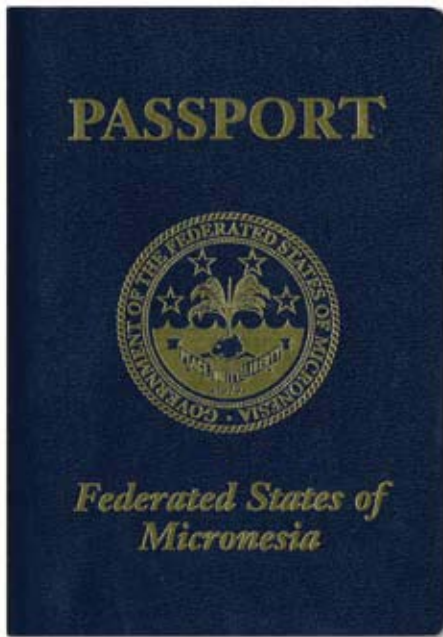
Form I-94A Arrival/Departure Record

Passports of the Federated States of Micronesia and the Republic of the Marshall Islands

In 2003, Compacts of Free Association (CFA) between the United States and the Federated States of Micronesia (FSM) and Republic of the Marshall Islands (RMI) were amended to allow citizens of these countries to work in the United States without obtaining an Employment Authorization Document (Form I-766).

For Form I-9 purposes, citizens of these countries may present their passports accompanied by a Form I-94 or

I-94A indicating nonimmigrant admission under the CFA. The exact notation on the Form I-94 or I-94A may vary and is subject to change, but as of early 2009 typically states "CFA/MIS" for an RMI citizen, and "CFA/FSM" for an FSM citizen.



Passport from the Federated States of Micronesia

List B—Documents That Establish Identity Only

State-issued Driver's License

A driver's license can be issued by any State or territory of the United States (including the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, the Northern Mariana Islands, American Samoa, and the Commonwealth of the Northern Mariana Islands) or by a Canadian government authority, and is acceptable if it

contains a photograph or other identifying information such as name, date of birth, gender, height, color of eyes, and address.



Driver's License front and back



State-issued ID Card

An ID card can be issued by any State (including the District of Columbia, Puerto Rico, the U.S. Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands) or by a local government, and is acceptable if it

contains a photograph or other identifying information such as name, date of birth, gender, height, color of eyes, and address.



Identification Card front and back

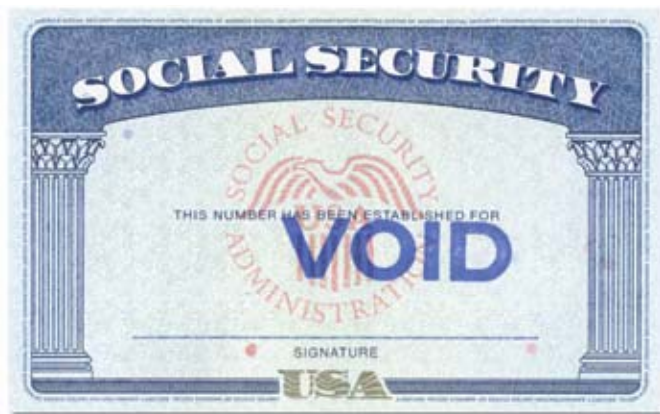


List C—Documents That Establish Employment Authorization Only

U.S. Social Security Account Number Card

The U.S. Social Security account number card is issued by the Social Security Administration (older versions were issued by the U.S. Department of Health and Human Services), and can be presented as a List C document unless the card specifies that it does not authorize employment in the United States. Metal or plastic reproductions are not acceptable.

U.S. Social Security Card



Certification of Birth Abroad Issued by the U.S. Department of State

These documents may vary in color and paper used. All will include a raised seal of the office that issued the document, and may contain a watermark and raised printing.

Certification of Birth Abroad Issued by the U.S. Department of State (FS-545)



159- 1018159

UNITED STATES OF AMERICA
DEPARTMENT OF STATE

Certification of Report of Birth
of a United States Citizen

This is to certify that the birth of INA SAMPLE SEX FEMALE
born at DESOLATION MONGOLIA
on APRIL 1, 1996 was registered with the Consular Service of the United States and a
Consular Report of Birth was issued at BISHKEK, KYRGYZSTAN
on SEPTEMBER 10, 1996

Father DADDY SAMPLE PARENTS Mother MOMMY SAMPLE
Date of Birth APRIL 1, 1970 Date of Birth APRIL 1, 1975

CONDOLEEZZA RICE
Secretary of State
Authentication Office, Washington, D.C.
OCTOBER 27, 2005
Date

WARNING: This certificate is not valid if it has been altered in any way whatsoever or if it does not bear the raised seal of the office of issuance.

Certification of Report of Birth Issued
by the U.S. Department of State (DS-1350)

Birth Certificate

Only an original or certified copy of a birth certificate issued by a state, county, municipal authority, or outlying possession of the United States that bears an official seal. Versions will vary by state and year of birth.

CERTIFICATION OF VITAL RECORD

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

VOID

COPY OF CERTIFICATE OF BIRTH
State of Rhode Island

NAME OF CHILD
John Doe

SEX
Male

DATE OF BIRTH
Feb. 3, 2002

PLACE OF BIRTH (Name of Hospital or Other Institution)
The Memorial Hospital

CITY OR TOWN
Pawtucket

COUNTY
Providence

STATE
RHODE ISLAND

FATHER'S NAME
John R. Doe

FATHER'S RESIDENCE
Providence

FATHER'S DATE OF BIRTH
17

FATHER'S AGE
17

MOTHER'S RESIDENCE
Newport, RI

MOTHER'S DATE OF BIRTH
17

MOTHER'S AGE
17

DATE OF REGISTRATION
Feb. 5, 2002

FILED
RI

I hereby certify that this is a true and exact copy of the document officially registered and placed on file in the issuing office.

015-29

Issuing Office STATE OFFICE, PROVIDENCE Date of Issuance SEP 11 2002

Signature of Registrar _____

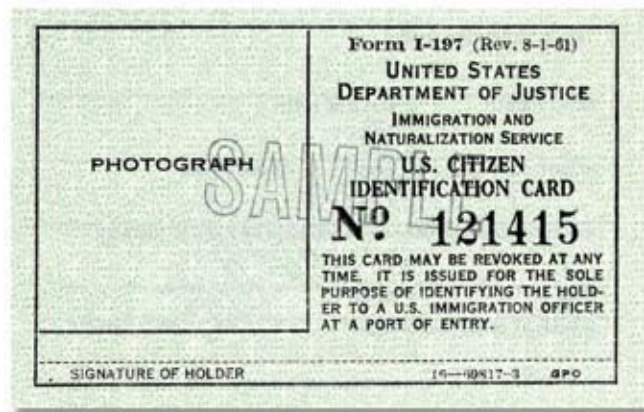
THIS COPY VALID ONLY IF ISSUED ON PAPER WITH ENGRAVED BORDER DISPLAYING RAISED SEAL AND SIGNATURE OF STATE OR LOCAL REGISTRAR.

Birth Certificate

U.S. Citizen Identification Card (Form I-197)

Form I-197 was issued by the former Immigration and Naturalization Service (INS) to naturalized U.S. citizens. Although this card is no longer issued, it is valid indefinitely.

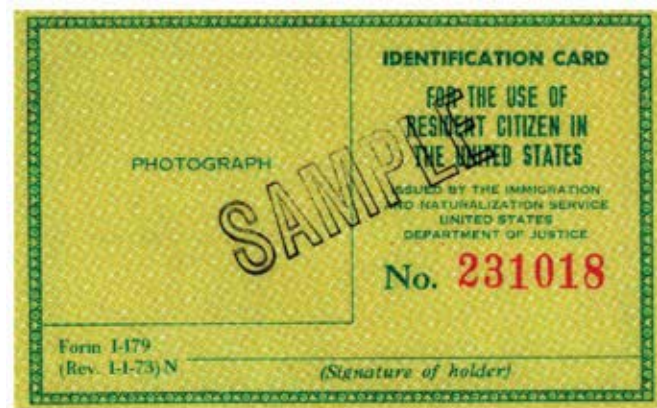
U.S. Citizen Identification Card
(Form I-197)



Identification Card for Use of Resident Citizen in the United States (Form I-179)

Form I-179 was issued by INS to U.S. citizens who are residents of the United States. Although this card is no longer issued, it is valid indefinitely.

Identification Card for Use of Resident
Citizen in the United States (Form I-179)



Form I-20 Certificate Accompanied by Form I-94 or I-94A

Form I-94 or I-94A for F-1 nonimmigrant students must be accompanied by a Form I-20 Student ID endorsed with employment authorization by the Designated School Official for off-campus employment or curricular practical training. USCIS will issue an Employment Authorization Document (Form I-766) to all students (F-1 and M-1) authorized for a post-completion practical training period. (See page 48 for Form I-94/I-94A)

Form I-20 Certificate Accompanied
by Form I-94 or I-94A

Nonimmigrant exchange visitors (J-1) must have a Form I-94 or I-94A accompanied by an unexpired Form DS-2019, issued by the U.S. Department of State, that specifies the sponsor. J-1 exchange visitors working outside the program indicated on the Form DS-2019 also need a letter from their responsible school officer. **(See page 48 for Form I-94/I-94A)**

Form DS-2019 Accompanied by Form I-94 or I-94A

Index

Symbols

240 days 9, 12, 33

A

agent 25
agricultural employers 38
Alien/Admission number 30, 34, 39, 48
anti-discrimination provision 3, 19, 20, 21, 22, 30, 36, 38, 39, 40
asylee 9, 20, 39, 40
attestation 15, 16, 22, 31, 39
authenticity 17, 30

B

birth certificate 31, 32, 44, 52

C

Canadian 33, 34, 38, 44, 50
Canadian driver's license 33
“cap gap” 9
CBP 3
Certification of Birth Abroad issued by the U.S. Department of State (Form FS-545) 44, 51
Certification of Report of Birth issued by the U.S. Department of State (Form DS-1350) 44, 52
citizenship 19, 20
citizenship status 22
citizenship status discrimination 19, 39
Coast Guard Merchant Mariner Card 44
co-employment 37
collective bargaining agreement 37
conditional lawful permanent resident 9
current employees 12, 13

D

date of hire 12, 33
discrimination 1, 3, 5, 12, 19, 20, 21, 22, 23, 25, 30, 39, 40
document abuse 19, 22, 39
document fraud 3, 23
documents that establish both identity and employment authorization 43, 45
documents that establish employment authorization 44, 51
documents that establish identity 27, 44, 50
driver's license 7, 12, 20, 39, 40, 44, 50

E

electronic Form I-9 15
electronic signature 16
employment authorization 1, 3, 6, 7, 8, 9, 10, 11, 12, 13, 19, 20, 22, 27, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 43
Employment Authorization Document (Form I-766) 8, 12, 20, 31, 32, 33, 34, 36, 37, 39, 40, 43, 44, 48, 49
employment discrimination 19
E-Verify 1, 3, 5, 6, 27, 30, 32, 34
Executive Office for Immigration Review (EOIR) 3

expiration date 7, 8, 9, 12, 13, 20, 31, 32, 33, 34, 36, 39, 40, 47

extension 7, 8, 9, 12, 31, 34, 37

F

F-1 student 9, 33, 34, 35, 48, 53
Federated States of Micronesia (FSM) 31, 40, 43, 49
filing charges of employment discrimination 20
Form DS-1350 (Certification of Birth) 44, 52
Form DS-2019 35, 48, 54
Form FS-545 (Certification of Birth Abroad) 44, 51
Form I-20 9, 34, 35, 53
Form I-94/I-94A (Arrival/Departure Record) 8, 9, 32, 33, 34, 35, 40, 43, 48, 49, 53, 54
Form I-179 (Identification Card for the Use of Resident Citizen in the United States) 31, 44, 53
Form I-197 (U.S. Citizen Identification Card) 31, 44, 53
Form I-551 (Permanent Resident Card/ Alien Registration Receipt Card) 8, 9, 19, 31, 32, 33, 35, 36, 39, 43, 46, 47 31, 32, 33, 36
Form I-766 (Employment Authorization Document) 8, 9, 12, 20, 31, 32, 33, 34, 36, 37, 39, 40, 43, 49
Form I-797 (Notice of Action) 8, 9, 33, 34
future expiration date 12, 20, 36, 39

G

good faith defense 22, 30, 37
green card (Form I-551) 8, 9, 31, 32, 33, 35, 39, 36, 43, 46, 47 31, 32, 33, 36

H

H-1B nonimmigrant 8, 9, 34
hired 29
Homeland Security Act 3

I

ICE 3
ID card, state-issued 44, 50
Identification Card for the Use of Resident Citizen in the United States (Form I-179) 31, 44, 53
identity 1, 3, 6, 8, 9, 10, 11, 12, 19, 20, 22, 27, 31, 32, 37, 38, 40, 43, back cover
Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996 3
Immigration and Nationality Act (INA) 3, 19, 20, 21, 22, 23, 25, 30, 36, 38, 39, 40
Immigration Reform and Control Act of 1986 (IRCA) 3
indemnification 22, 25
independent contractors 5, 29
inspection 15, 17, 21, 25, 37, 38

J

J-1 exchange visitor 9, 33, 34, 35, 48, 54

L

lawful permanent resident (LPR) 3, 8, 12, 19, 31, 39
List A 6, 7, 8, 9, 10, 11, 12, 20, 30, 31, 32, 33, 34, 35, 36, 39, 43, 44, 45
List B 6, 7, 10, 11, 12, 20, 27, 30, 31, 33, 44, 43, 50
List C 6, 7, 9, 10, 11, 12, 20, 30, 31, 33, 34, 36, 39, 43, 44, 51
lists of acceptable documents 6, 7, 30, 31, 34, 36, 39, 43

M

machine-readable immigrant visa (MRIV) 43, 47
microfilm 15
military card 41, 44
military dependent's ID card 44
minor (persons under age 18) 10, 11, 44

N

NAFTA 33, 34, 38
national origin discrimination 19, 20, 22, 23
Native American tribal document 31, 44
noncitizen national 3, 27, 29, 31, 45
nonimmigrant 9, 27, 31, 32, 33, 39, 43, 49
nonimmigrant classifications 33
notary public 36, 37
Notice of Intent to Fine (NIF) 21, 23

O

Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) 3, 15, 19, 20, 21, 22, 30, 38, 40
Optional Practical Training (OPT) 9, 34
OPT STEM extension 9
order USCIS forms 29, inside front cover

P

paper Form I-9 15, 16
passport, foreign 8, 9, 32, 33, 35, 43, 47, 48
passport, U.S. 30, 31, 36, 43, 45
passport card, U.S. 30, 36, 43, 46
penalties 1, 3, 19, 21, 22, 23, 25, 30, 37, 38
Permanent Resident Card/Alien Registration Receipt Card (Form I-551) 8, 9, 31, 32, 33, 35, 36, 43, 46, 47
permanent resident 3, 8, 12, 19, 31, 39
photocopy 1, 15, 16, 17, 32
preparer/translator 5, 6, 10, 11, 12, 38, 41
professional employer organization (PEO) 37
prohibited practice 1, 19, 21, 22, 23
Puerto Rico 29, 41, 50

R

receipt 7, 8, 29, 30, 32, 33, 34, 36, 43
recruiter 1, 7, 25, 37, 38
referrer for a fee 1, 7, 25, 37, 38
refugee 8, 12, 20, 33, 39, 40
rehire 12, 13, 35
remuneration 5, 29
Republic of the Marshall Islands (RMI) 31, 40, 43, 49
Resident Alien Card (Form I-551) 46

retaliation 20, 21
retention 1, 15, 16, 17, 30, 35, 37
reverification 8, 9, 12, 13, 20, 27, 31, 32, 33, 35, 34, 36, 39, 47

S

school ID 44
Section 1 5, 6, 10, 12, 13, 27, 30, 31, 38, 39
Section 2 5, 6, 7, 8, 10, 11, 13, 27, 30, 31, 32, 37
Section 3 12, 13, 36
security of Forms I-9 16
self-employed 38
Social Security card 8, 12, 20, 31, 32, 33, 34, 39, 40, 44, 51
Social Security number 5, 6, 7, 32, 34
Spanish version 41
special placement 11, 12
state employment agency 38
status discrimination 19, 20
STEM extension 9, 34
storage 15, 16, 17
student 9, 33, 34, 35, 48, 53
system documentation 16

T

temporary agencies 5
temporary employment authorization 7, 8, 12, 27, 33, 36, 48
temporary I-551 stamp 8, 33, 43, 47
Temporary Protected Status (TPS) 8, 31
terminate 15, 16, 30, 37
Title VII 19, 20, 21, 23
TN 9, 33, 34

U

unauthorized alien 21, 22, 29, 30, 37
update 12, 13
U.S. Citizen Identification Card (Form I-197) 31, 44, 53
U.S. citizen 3, 19, 20, 27, 29, 31, 39, 45
U.S. Coast Guard Merchant Mariner Card 44
U.S. Customs and Border Protection (CBP) 3
U.S. Department of Justice (DOJ) 3, 46
U.S. Department of Labor (DOL) 15
U.S. Equal Employment Opportunity Commission (EEOC) 19, 21, 40
U.S. Immigration and Customs Enforcement (ICE) 3
U.S. military card 44
U.S. noncitizen national 29, 31

V

violation 21, 22, 23, 25, 30, 35, 37, 38, 40, back cover
voter's registration card 44

Form I-9, Employment Eligibility Verification

Instructions

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 United States) 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-authorized 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. For more information, call the Office of Special Counsel for Immigration Related Unfair Employment Practices at 1-800-255-8155.

What Is the Purpose of This Form?

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

When Should Form I-9 Be Used?

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

Filling Out Form I-9

Section 1, Employee

This part of the form must be completed no later than 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.**

Noncitizen Nationals of the United States

Noncitizen nationals of the United States 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.

Employers should note the work authorization expiration date (if any) shown in **Section 1**. For employees who indicate an employment authorization expiration date in **Section 1**, employers are required to reverify employment authorization for employment on or before the date shown. Note that some employees may leave the expiration date blank if they are aliens whose work authorization does not expire (e.g., asylees, refugees, certain citizens of the Federated States of Micronesia or the Republic of the Marshall Islands). For such employees, reverification does not apply unless they choose to present

in Section 2 evidence of employment authorization that contains an expiration date (e.g., Employment Authorization Document (Form I-766)).

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 or 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 authorization within three business days of the date employment begins. However, if an employer hires an individual for less than three business days, **Section 2** must be completed at the time employment begins. Employers cannot specify which document(s) listed on the last page of Form I-9 employees present to establish identity and employment authorization. Employees may present any List A document **OR** a combination of a List B and a List C document.

If an employee is unable to present a required document (or documents), the employee must present an acceptable receipt in lieu of a document listed on the last page of this form. Receipts showing that a person has applied for an initial grant of employment authorization, or for renewal of employment authorization, are not acceptable. Employees must present receipts within three business days of the date employment begins and must present valid replacement documents within 90 days or other specified time.

Employers must record in Section 2:

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 in **Section 2**. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. If photocopies are made, they must be made for all new hires. Photocopies may only be used for the verification process and must be retained with Form I-9. **Employers are still responsible for completing and retaining Form I-9.**

For more detailed information, you may refer to the *USCIS Handbook for Employers* (Form M-274). You may obtain the handbook using the contact information found under the header "USCIS Forms and Information."

Section 3, Updating and Reverification

Employers must complete **Section 3** when updating and/or reverifying Form I-9. Employers must reverify employment authorization of their employees on or before the work authorization expiration date recorded in **Section 1** (if any). 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 years of the date this form was originally completed and the employee is still authorized 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 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 the employee is authorized to work in the United States (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.

Note that for reverification purposes, employers have the option of completing a new Form I-9 instead of completing **Section 3**.

What Is the Filing Fee?

There is no associated filing fee for completing Form I-9. This form is not filed with USCIS or any government agency. 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, you can download them from our website at www.uscis.gov/forms or call our toll-free number at 1-800-870-3676. You can obtain information about Form I-9 from our website at www.uscis.gov or by calling 1-888-464-4218.

Information about E-Verify, a free and voluntary program that allows participating employers to electronically verify the employment eligibility of their newly hired employees, can be obtained from our website at www.uscis.gov/e-verify or by calling 1-888-464-4218.

General information on immigration laws, regulations, and procedures can be obtained by telephoning our National Customer Service Center at 1-800-375-5283 or visiting our Internet website at www.uscis.gov.

Photocopying and Retaining 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 Form I-9s for three years after the date of hire or one year after the date employment ends, whichever is later.

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 authorized officials of the Department of Homeland Security, 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

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 12 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529-2210. OMB No. 1615-0047. **Do not mail your completed Form I-9 to this address.**

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

Form I-9, Employment Eligibility Verification

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-authorized 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 <i>(Street Name and Number)</i>		Apt. #	Date of Birth <i>(month/day/year)</i>
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): <input type="checkbox"/> A citizen of the United States <input type="checkbox"/> A noncitizen national of the United States (see instructions) <input type="checkbox"/> A lawful permanent resident (Alien #) _____ <input type="checkbox"/> An alien authorized to work (Alien # or Admission #) _____ until (expiration date, if applicable - month/day/year)	
Employee's Signature		Date <i>(month/day/year)</i>	

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 <i>(Street Name and Number, City, State, Zip Code)</i>	Date <i>(month/day/year)</i>

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: _____		_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date <i>(if any)</i> : _____		_____		_____
Document #: _____		_____		_____
Expiration Date <i>(if any)</i> : _____		_____		_____

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 authorized 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 <i>(Street Name and Number, City, State, Zip Code)</i>		Date <i>(month/day/year)</i>

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

A. New Name <i>(if applicable)</i>	B. Date of Rehire <i>(month/day/year) (if applicable)</i>
C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment authorization.	
Document Title: _____	Document #: _____
Expiration Date <i>(if any)</i> : _____	
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized 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 <i>(month/day/year)</i>

LISTS OF ACCEPTABLE DOCUMENTS

All documents must be unexpired

LIST A

**Documents that Establish Both
Identity and Employment
Authorization**

LIST B

**Documents that Establish
Identity**

LIST C

**Documents that Establish
Employment Authorization**

LIST A	OR	AND
1. U.S. Passport or U.S. Passport Card	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. Social Security Account Number card other than one that specifies on the face that the issuance of the card does not authorize employment in the United States
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		2. Certification of Birth Abroad issued by the Department of State (Form FS-545)
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa	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	
4. Employment Authorization Document that contains a photograph (Form I-766)	3. School ID card with a photograph	3. Certification of Report of Birth issued by the Department of State (Form DS-1350)
5. In the case of a nonimmigrant alien authorized to work for a specific employer incident to status, a foreign passport with Form I-94 or Form I-94A bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, as long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form	4. Voter's registration card	4. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
	5. U.S. Military card or draft record	5. Native American tribal document
	6. Military dependent's ID card	
	7. U.S. Coast Guard Merchant Mariner Card	6. U.S. Citizen ID Card (Form I-197)
	8. Native American tribal document	
	9. Driver's license issued by a Canadian government authority	7. Identification Card for Use of Resident Citizen in the United States (Form I-179)
6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with 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	For persons under age 18 who are unable to present a document listed above:	
	10. School record or report card	8. Employment authorization document issued by the Department of Homeland Security
	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)

REMEMBER:

1. Hiring employees without complying with the employment eligibility verification requirements is a violation of the employer sanctions laws.
2. This law requires employees hired on or after November 6, 1986, to present documentation that establishes identity and employment authorization. Employers must record this information on Forms I-9.
3. Employers may not discriminate against employees on the basis of national origin or citizenship status.



**U.S. Citizenship
and Immigration
Services**

www.uscis.gov ★ 1 800 375 5283