Handbook for Employers

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

U.S. Citizenship and Immigration Services

M-274 (Rev. 01/05/11) N

Obtaining Forms and Updates

You may obtain copies of English and Spanish versions of Form I-9, Form I-9 CNMI and this Handbook from the U.S. Citizenship and Immigration Services (USCIS) web site at www.uscis.gov. Should you wish to order Forms I-9 by telephone, call the USCIS Forms Request Line toll-free at 1-800-870-3676.

Because immigration law and employment eligibility verification regulations can change over time, we encourage you to periodically check www.uscis.gov for updated Form I-9 information.

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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: U.S. citizens, noncitizen nationals, lawful permanent residents, and aliens authorized to work. To comply with the law, employers must verify the identity and employment authorization of each person they hire, complete and retain a Form I-9, *Employment Eligibility Verification*, 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, as an employer, must 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, 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 provision 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. Remuneration is anything of value given in exchange for labor or services, including food and lodging. The requirement to complete Form I-9 applies to new employees hired after November 6, 1986. This requirement does not apply to employees hired on or before November 6, 1986, who are continuing in their employment and have a reasonable expectation of employment at all times.

Ensure that the employee completes Section 1 of Form I-9 by his or her first day of work for pay. Employees may complete Section 1 of Form I-9 at any time between acceptance of a job offer and the first day of work for pay. Review the employee's document(s) and fully complete Section 2 of Form I-9 within three business days of the first day of work for pay. For example, if the employee begins work on Monday, you must complete Section 2 by Thursday.

If you hire a person for fewer than three business days, Sections 1 and 2 of Form I-9 must be fully completed by the employee's first day of work for pay.

You may not begin the Form I-9 process until you offer an individual a job and he or she accepts your offer.

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

1. Hired on or before November 6, 1986, who are continuing in their employment and have a reasonable expectation of employment at all times; (This exception to the requirement does not apply to seasonal employees or employees who change employers within a multi-employer association. Other limitations may also apply.)

2. Employed for casual domestic work in a private home on a sporadic, irregular, or intermittent basis;

3. Independent contractors;

4. Providing labor to you who are employed by a contractor providing contract services (e.g., employee leasing or temporary agencies); or

5. Not physically working on U.S. soil.

NOTE: You cannot contract for the labor of an individual if you know that he or she is not authorized to work in the United States.

Completing Section 1

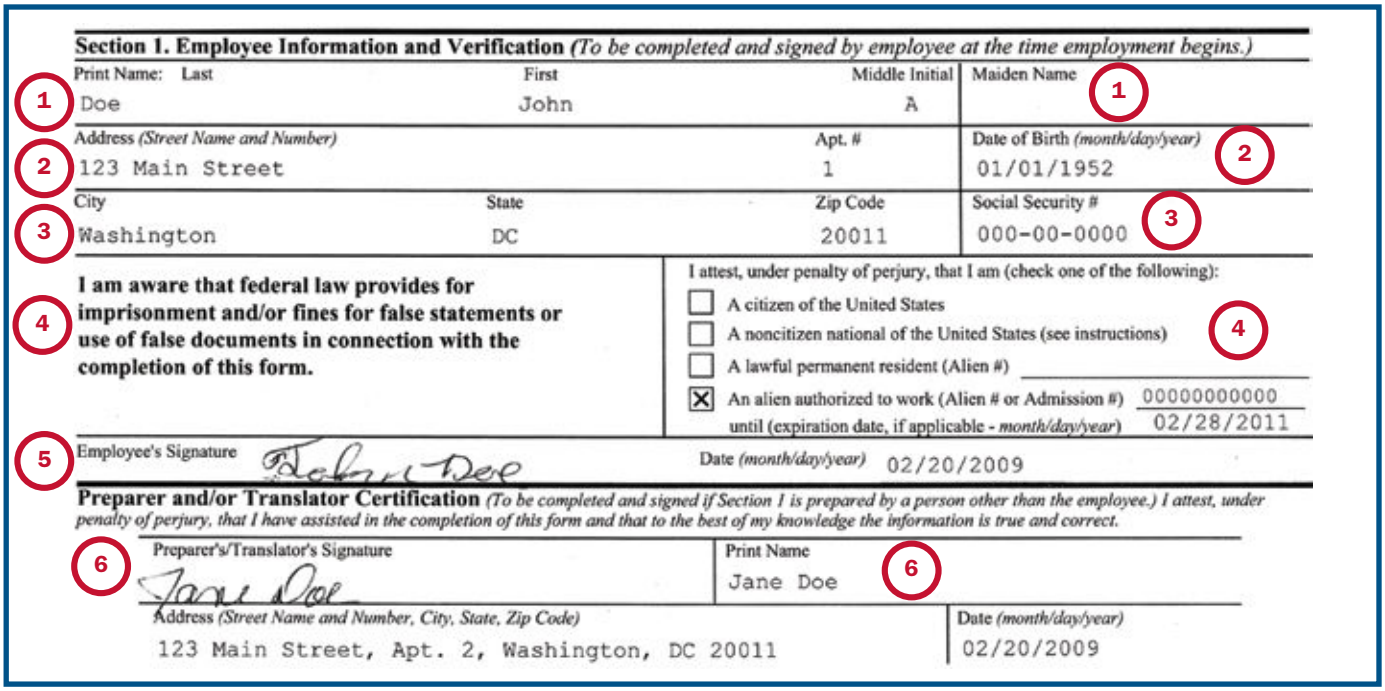
Have the employee complete Section 1 by his or her first day of work for pay by filling in the correct information and signing and dating the form. Ensure that the employee prints the information clearly.

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 and/or 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 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 E-Verify, see Part Six. For more information on unlawful discrimination, see Part Four.



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
Doe	John	A	

Address *(Street Name and Number)*	Apt. #	Date of Birth *(month/day/year)*
123 Main Street	1	01/01/1952

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):

- ☐ A citizen of the United States
- ☐ A noncitizen national of the United States (see instructions)
- ☐ A lawful permanent resident (Alien #) _____
- ☒ An alien authorized to work (Alien # or Admission #) 00000000000
  until (expiration date, if applicable - *month/day/year*) 02/28/2011

Employee's Signature Jane Doe 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's/Translator's Signature	Print Name
Jane Doe	Jane Doe

Address *(Street Name and Number, City, State, Zip Code)*	Date *(month/day/year)*
123 Main Street, Apt. 2, Washington, DC 20011	02/20/2009

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

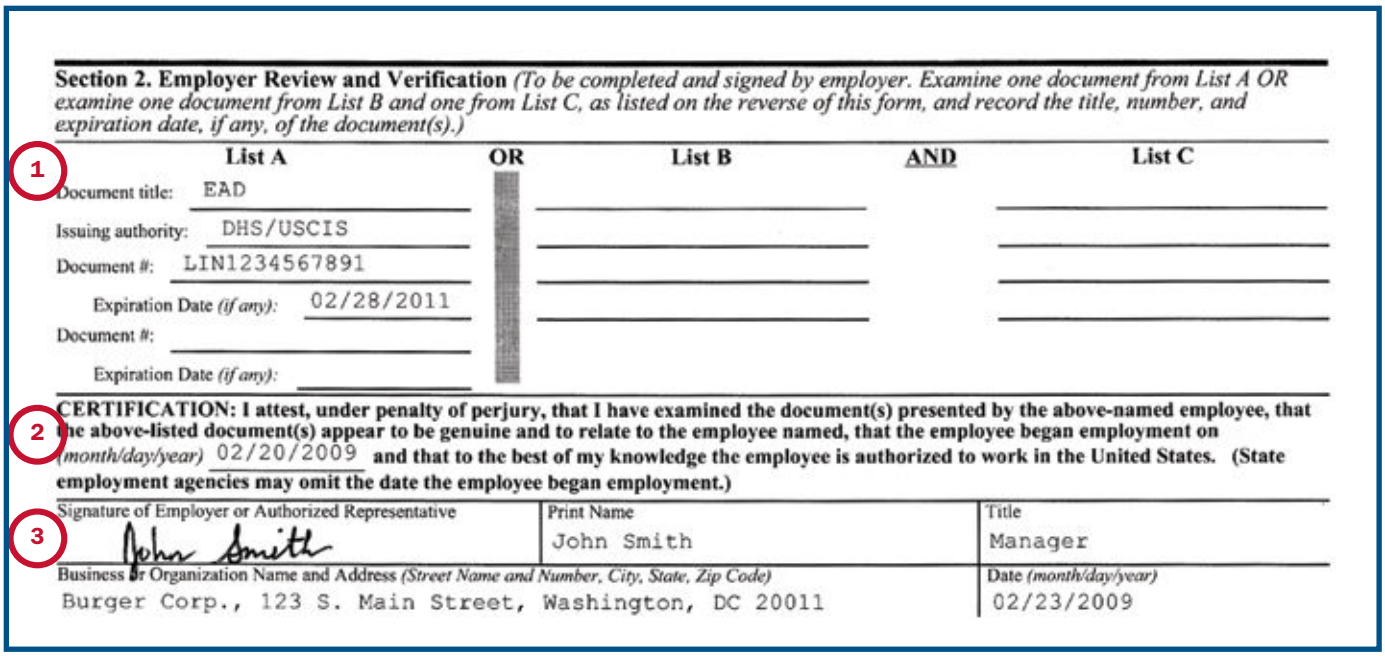
1. Employee enters full name and maiden name, if applicable.
2. Employee enters current address and date of birth.
3. Employee enters his or her city, state, ZIP Code, and Social Security number. Entering the Social Security number is optional unless the employer also confirms employment authorization using E-Verify.
4. Employee reads warning and attests to his or her citizenship or immigration status by checking the appropriate box.
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 the Preparer and/or Translator Certification block.

Completing Section 2

The employee must present to you an original document or documents that show his or her identity and employment authorization within three business days of the date employment begins. Some documents show both identity and employment authorization (List A). Other documents show identity only (List B) or employment authorization only (List C). The employee must be allowed to choose which document(s) he or she wants to present from the Lists of Acceptable Documents. These lists appear in Part Eight and on the last page of Form I-9.

Examine the original document(s) 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 employment begins 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. However, you may only accept unexpired documents. If you choose to make copies of documents your employee presents, you must do so for all employees, regardless of national origin or citizenship status. Return the original documents to your employee when you are finished.

NOTE: If you participate in E-Verify, 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).)*

List A	OR	List B	AND	List C
1 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.)**

2

Signature of Employer or Authorized Representative	Print Name	Title
3 John Smith	John Smith	Manager
Business or Organization Name and Address *(Street Name and Number, City, State, Zip Code)*		Date *(month/day/year)*
Burger Corp., 123 S. Main Street, Washington, DC 20011		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 completing the signature block. If a designated agent or notary public completes this section, he or she must provide the employer's name and address under his or her signature.

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.

Acceptable receipts an employee can present are listed in the table on the next page:

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
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, one 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 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.

A receipt indicating that an individual has applied for an initial Employment Authorization Document (Form I-766) or for an extension of an expiring Employment Authorization Document (Form I-766) is NOT acceptable proof of employment authorization on Form I-9. Receipts are never acceptable if employment lasts fewer than three business days.

Minors (Individuals under Age 18)

If a person under the age of 18 cannot present an identity document from List B, he or she may establish identity by completing Form I-9 as shown on the next page.

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
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):

- [x] A citizen of the United States
- [ ] A noncitizen national of the United States (see instructions)
- [ ] A lawful permanent resident (Alien #) _____
- [ ] An alien authorized to work (Alien # or Admission #) _____ until (expiration date, if applicable - *month/day/year*)

1

Employee's Signature: INDIVIDUAL UNDER AGE 18 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.*

2

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	3	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

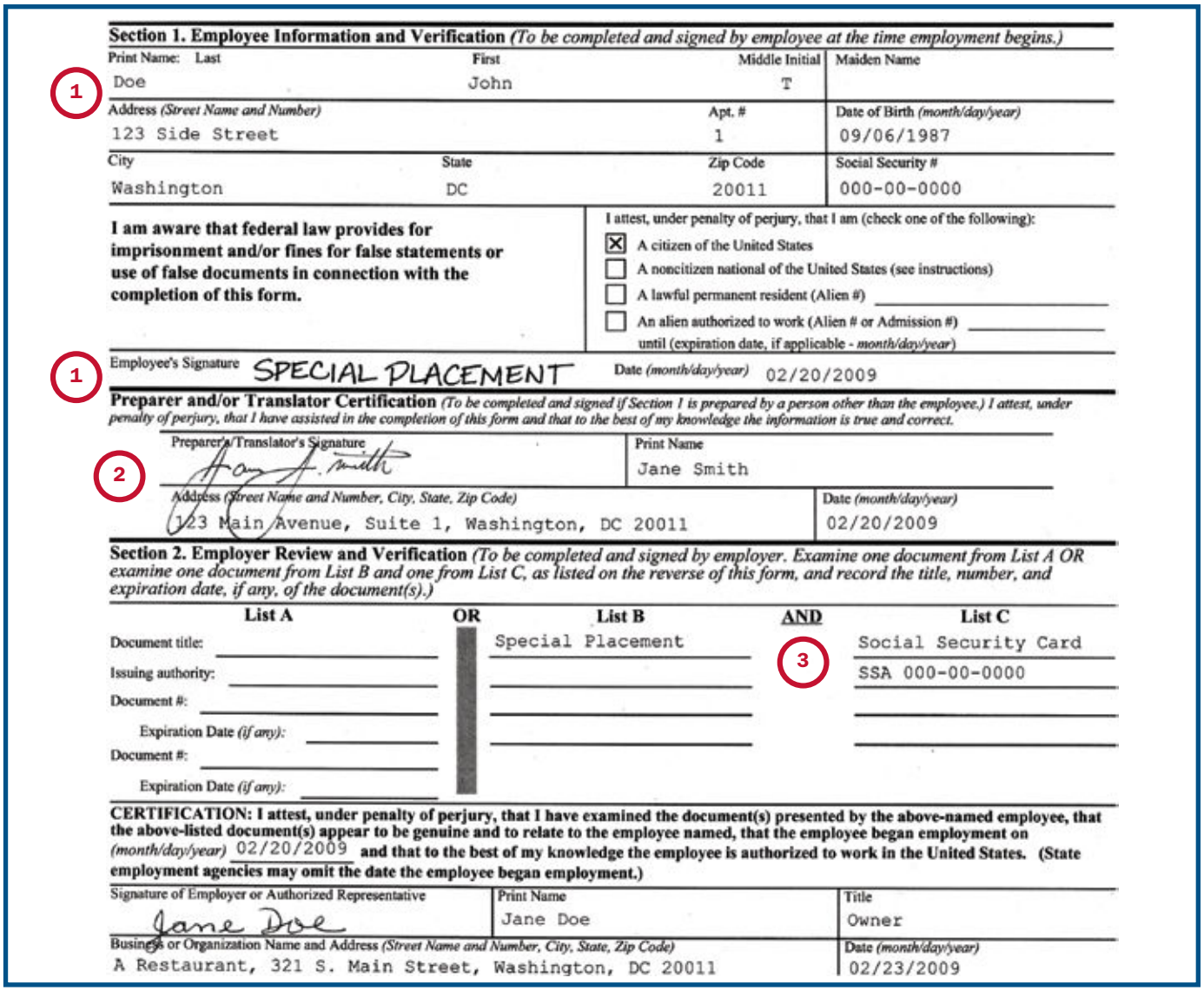
Business or Organization Name and Address (*Street Name and Number, City, State, Zip Code*)	Date (*month/day/year*)
Warm Coat Co. 456 S. Main Street, Washington, DC 20013	02/23/2009

Figure 3: Completing Form I-9 for Minors

1. Parent or legal guardian of a minor employee completes Section 1 and writes, "Individual under age 18" in signature space.
2. Parent or legal guardian completes the Preparer and/or Translator Certification block.
3. Employer enters "Individual under age 18" under List B and records the List C document the minor presents.

Employees with Disabilities (Special Placement)

A person who has a physical or mental impairment which substantially limits one or more of such person's major life activities, and who is placed in a job by a nonprofit organization, association, or as part of a rehabilitation program, may establish identity under List B by using similar procedures to those used by persons under 18 years of age if he or she cannot produce a List B identity document and otherwise qualifies to use these procedures. Complete Form I-9 as shown on the next page.



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
Doe	John	T	

Address *(Street Name and Number)*	Apt. #	Date of Birth *(month/day/year)*
123 Side Street	1	09/06/1987

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):

- [x] A citizen of the United States
- [ ] A noncitizen national of the United States (see instructions)
- [ ] A lawful permanent resident (Alien #) _____
- [ ] An alien authorized to work (Alien # or Admission #) _____ until (expiration date, if applicable - *month/day/year*)

1 Employee's Signature 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.*

2 Preparer's/Translator's Signature Jane Smith | 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	AND	List C
Document title:		Special Placement	3	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
Jane Doe	Jane Doe	Owner

Business or Organization Name and Address *(Street Name and Number, City, State, Zip Code)*	Date *(month/day/year)*
A Restaurant, 321 S. Main Street, Washington, DC 20011	02/23/2009

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

1. 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. Representative, parent, or legal guardian completes the Preparer and/or Translator Certification block.
3. Employer enters "Special Placement" under List B and records the List C document that the employee with a disability presents.

Future Expiration Dates

Future expiration dates may appear on the employment authorization documents of individuals, including, among others, lawful permanent residents, asylees and refugees. USCIS includes expiration dates even on documents issued to individuals 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 individual 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. For more information on unlawful 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. For example, the Employment Authorization Document (Form I-766) must be reverified on or before the expiration date.

Reverifying Employment Authorization for Current Employees

When an employee's employment authorization document expires, you must reverify his or her employment authorization no later than the date employment authorization expires. 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 I-9, write the employee's name in Section 1, complete Section 3, and retain the new Form I-9 with the original. The employee must present a document that shows current employment authorization, e.g., any document from List A or List C, including an unrestricted Social Security card. If the employee cannot provide you with proof of current employment authorization, you cannot continue to employ that person.

NOTE: U.S. citizens and noncitizen nationals never need reverification. Do not reverify the following documents: 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.

Employees whose immigration status, employment authorization, or employment authorization documents expire should file the necessary application or petition sufficiently in advance to ensure that they maintain continuous employment authorization or valid employment authorization documents. If the employee is authorized to work for a specific employer, such as an H-1B or L-1 nonimmigrant, 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. See *Completing Form I-9 for Nonimmigrant Categories* below.

NOTE: You must reverify an employee's employment authorization on Form I-9 no later than the date that the employee's employment authorization or employment authorization document expires, whichever is sooner.

Reverification and Evidence of Status for Certain Categories

Lawful Permanent Residents

Employees who attest to being a lawful permanent resident in Section 1 of Form I-9 may choose to present a valid Form I-551, Permanent Resident Card, for Section 2 (or Section 3, if applicable). A lawful permanent resident is not required to do so, however, and instead may choose to present a List B and List C document combination, e.g., state-issued driver's license and unrestricted Social Security card.

If an employee presents a Form I-551, you should know that Forms I-551 may contain no expiration date, a 10-year expiration date, or a two-year expiration date. Cards that expire in 10 years or not at all are issued to lawful permanent residents with no conditions on their status. Cards that expire in two years are issued to lawful permanent residents with conditions on their status. Conditional residents can lose their status if they fail to remove these conditions. Permanent Resident Cards with either an expiration date or no expiration date are List A documents that should not be reverified.

Lawful permanent residents and conditional residents may be issued temporary I-551 documents. These documents are acceptable for Form I-9 as follows:

1. If an employee presents an expired Permanent Resident Card along with a Form I-797, *Notice of Action*, that indicates that the card is valid for an additional year, this combination is acceptable List C evidence of employment authorization for one year as indicated on Form I-797. At the end of the one-year period, you must reverify.

2. If an employee presents a foreign passport with either a temporary I-551 stamp or I-551 printed notation on a machine-readable immigrant visa (MRIV), you must reverify when the stamp or MRIV expires, or one year after the issuance date if the stamp or MRIV does not contain an expiration date.

3. If an employee presents the arrival portion of Form I-94/I-94A containing an unexpired temporary I-551 stamp and a photograph of the individual, this combination of documents is an acceptable List A receipt for the Permanent Resident Card. The employee must present his or her Permanent Resident

Card to the employer no later than when the stamp expires, or one year after the issuance date of the Form I-94 if the stamp does not contain an expiration date.

NOTE: If USCIS has approved the employee's application to adjust status to that of a lawful permanent resident, but the employee has not yet received his or her initial Form I-551, he or she can obtain temporary evidence of permanent resident status at a local USCIS field office. However, you may not accept Form I-797 that acknowledges receipt of an application for an initial Form I-551 because receipts for an application for a new document are acceptable only if the original document has been lost, stolen, or damaged.

Refugees and Asylees

Refugees and asylees are authorized to work because of their immigration status. When completing Form I-9, the refugee or asylee should indicate "alien authorized to work" in Section 1 of Form I-9. Since refugees and asylees are authorized to work because of their immigration status, a refugee or asylee should write "N/A" on the line calling for an expiration date.

Many refugees and asylees may choose to present an unexpired Employment Authorization Document (Form I-766) to employers to complete Form I-9. However, neither refugees nor asylees are required to present an Employment Authorization Document (Form I-766) to meet Form I-9 requirements. Both refugees and asylees may also present other documents that are acceptable for Form I-9, such as Form I-94/I-94A indicating refugee or asylee status. List B and List C combinations, such as a State-issued driver's license and an unrestricted Social Security card, may also be presented by both.

NOTE: The Social Security Administration issues refugees and asylees unrestricted Social Security cards. These are List C documents for Form I-9 purposes and are not subject to reverification. Application procedures for Social Security cards can be found on the Social Security Administration's site at www.ssa.gov.

Refugees

Upon admission to the United States, a refugee will receive Form I-94/I-94A with an unexpired refugee admission stamp. If an employee presents this document to complete Form I-9, the employer must accept it as a receipt establishing both employment authorization and identity for 90 days. In the meantime, USCIS will be processing an Employment Authorization Document (Form I-766) for the refugee.

At the end of the 90-day receipt period, the refugee must present either an Employment Authorization Document (Form I-766) or a document from List B, such as a State-issued driver's license, with a document from List C, such as an unrestricted Social Security card.

Asylees

After being granted asylum in the United States, the asylee will receive a Form I-94/I-94A with a stamp or notation indicating asylee status, such as "asylum granted indefinitely" or the appropriate provision of law (8 CFR 274a.12(a)(5) or INA 208). This document is considered a List C document that demonstrates employment authorization in the United States and does not expire. If the asylee chooses to present this document, he or she also will need to present a List B identity document, such as a State-issued driver's license or identification card.

USCIS also issues asylees Employment Authorization Documents (Forms I-766), which are acceptable as List A documents. In some situations, USCIS issues asylees Employment Authorization Documents (Forms I-766) automatically. In other situations, USCIS issues asylees Employment Authorization Documents (Forms I-766) upon request based on the filing of an employment authorization application.

Temporary Protected Status (TPS)

Temporary Protected Status (TPS) is a temporary immigration benefit that allows qualified individuals from designated countries (or parts of those countries) who are in the United States to stay here for a limited time period. As a TPS beneficiary, an employee may choose to present an Employment Authorization Document (Form I-766) to demonstrate employment authorization or any other applicable document or combination of documents listed on Form I-9 as proof of identity and employment authorization. TPS-related Employment Authorization Documents (Forms I-766) contain an expiration date on their face, but a TPS beneficiary may continue to work after the expiration date if DHS has temporarily extended the validity date of the Employment Authorization Document (Form I-766) through an appropriate notice published in the *Federal Register*.

When DHS extends a specific TPS country designation, it sometimes issues a Federal Register notice containing a temporary blanket automatic extension of expiring Employment Authorization Documents (Forms I-766)

The notation "A-12" or "C-19" appears on the face of the Employment Authorization Document (Form I-766) under "Category."

The expiration date of the last re-registration period appears on the face of the card. (This date will be indicated in the Federal Register notice and may also be found on www.uscis.gov/tps.)

for TPS beneficiaries from that country to allow time for USCIS to issue new Employment Authorization Documents (Forms I-766) bearing updated validity dates. The USCIS website and Federal Register will note if Employment Authorization Documents (Forms I-766) have been automatically extended for TPS beneficiaries from the particular country and to what date. The automatic extension is typically for six months, but the time period can vary. TPS beneficiaries must re-register and, if they request, obtain new Employment Authorization Documents (Forms I-766) before the automatic extension expires.

You may accept an expired Employment Authorization Document (Form I-766) that has been auto-extended to complete the Form I-9, provided the following information appears on the card as shown in the box at the top of the page.

Employers should enter the document name, number, and expiration date in Section 2 under List A (or Section 3 if reverifying), noting the end of the auto-extension period. You may not request that an employee provide proof that he or she is a national of a country that has been designated for TPS. If your employee presents an Employment Authorization Document (Form I-766), you must accept it if it reasonably appears on its face to be genuine and to relate to the employee presenting it.

When the automatic extension of the Employment Authorization Document (Form I-766) expires, you must reverify the employee's employment authorization by entering the document name, number and expiration date in Section 3 of Form I-9 or a new Form I-9, if necessary. The TPS beneficiary may choose to present an unexpired Employment Authorization Document (Form I-766) with an updated expiration date or any other document from List A or C of Form I-9 establishing that he or she continues to be authorized to work in the United States. If the employee presents a renewed Employment Authorization Document (Form I-766), it will bear the notation "A-12" or "C-19" on the face of the card under "Category," and is acceptable under List A as evidence of both identity and employment authorization.

Exchange Visitors and Students

Each year thousands of exchange visitors, international students, and their dependents come to the United States to study and work.

Exchange Visitors (J-1s)

The Department of State administers the exchange visitor program and designates exchange visitor program sponsors. Responsible officers within the program issue Form DS-2019, *Certificate of Eligibility for Exchange Visitor (J-1)* Status. Exchange visitors come to the United States for a specific period of time to participate in a particular program or activity, as described on their Form DS-2019. Only J-1 exchange visitors may use Form DS-2019 for employment when such employment is part of their program. Currently, the Department of State designates public and private entities to act as exchange sponsors for the following programs:

Table 2: Exchange Visitor Programs

EXCHANGE VISITOR PROGRAMS
SECONDARY STUDENT
ASSOCIATE DEGREE STUDENT
BACHELOR'S DEGREE STUDENT
MASTER'S DEGREE STUDENT
DOCTORAL STUDENT
NON-DEGREE STUDENT
STUDENT INTERN
TRAINEE (SPECIALTY)
TRAINEE (NON-SPECIALTY)
TEACHER
PROFESSOR
INTERNATIONAL VISITOR
ALIEN PHYSICIAN
GOVERNMENT VISITOR
RESEARCH SCHOLAR
SHORT-TERM SCHOLAR
SPECIALIST
CAMP COUNSELOR
SUMMER WORK/TRAVEL
AU PAIR
TRAINEE
INTERN
Pilot Programs
Summer work/travel: Australia
Summer work/travel: New Zealand
Intern work/travel: Ireland
Work/English Study/travel: South Korea

High school or secondary school students and international visitors are not authorized to work.

Other J-1 students may be authorized by their responsible officer for part-time on-campus employment pursuant to the terms of a scholarship, fellowship, or assistantship or off-campus employment based on serious, urgent, unforeseen economic circumstances. J-1 students may also be authorized for a maximum of 18 months (or, for Ph.D. students, a maximum of 36 months) of practical training during or immediately after their studies. J-1 practical training includes paid off-campus employment and/or unpaid internships that are part of a J-1 student's program of study. The J-1 student's responsible officer must authorize employment in writing for practical training. Special rules apply to student interns.

Employment for other J-1 exchange visitors is sometimes job- and site-specific or limited to a few months.

For more information about these categories and their employment authorization, please contact the responsible officer whose name and telephone number are on Form DS-2019 or the U.S. Department of State's website at www.exchanges.state.gov.

USCIS does not issue Employment Authorization Documents (Forms I-766) to J-1 exchange visitors. However, they are issued several other documents that, when presented in combination, are acceptable under List A of Form I-9: unexpired foreign passport, Form I-94/I-94A and Form DS-2019. If the employee presents this combination of documents when completing Form I-9, ensure that he or she enters his or her admission number from Form I-94/ I-94A in Section 1.

You should record in Section 2 (or Section 3 if reverifying) under List A the exchange visitor's:

- Unexpired foreign passport number, issuing authority, and passport expiration date,
- 11-digit Form I-94/I-94A number and its expiration date (including duration of status, which is indicated on the card as "D/S"), and the
- Form DS-2019 number (SEVIS number) and expiration date of employment authorization listed on the form.

Some exchange visitors may extend their status. If you have questions about any exchange visitor's continued employment authorization, contact the responsible

officer whose name and telephone number are on Form DS-2019.

Dependents of a J-1 exchange visitor are classified as J-2 nonimmigrants and are only authorized to work if USCIS has issued them an Employment Authorization Document (Form I-766). A J-2 nonimmigrant's foreign passport and Form I-94/I-94A are not evidence of identity and employment authorization for purposes of Form I-9.

F-1 and M-1 Nonimmigrant Students

Foreign students pursuing academic studies and/or language training programs are classified as F-1 nonimmigrants, while foreign students pursuing nonacademic or vocational studies are classified as M-1 nonimmigrants. Designated school officials at certified schools issue Form I-20, *Certificate of Eligibility for Nonimmigrant (F-1)/(M-1) Students.*

F-1 nonimmigrant foreign students may be eligible to work under certain conditions. There are several types of employment authorization for students, including:

1. On-campus employment,
2. Curricular practical training,
3. Off-campus employment based on severe economic hardship,
4. Employment sponsored by an international organization, and
5. Optional practical training (OPT).

On-campus employment does not require designated school official or DHS approval but is limited to 20 hours a week when school is in session. On-campus employment must be performed on the school's premises (including on-location commercial firms that provide services for students on campus, such as the school bookstore or cafeteria), or at an off-campus location that is educationally affiliated with the school. Employment with on-site commercial firms, such as a construction company that builds a school building, is not deemed on-campus employment if it does not provide direct student services. For more information about on-campus employment, you should contact the Student and Exchange Visitor Program (SEVP) at www.ice.gov. The F-1 student's unexpired foreign passport in combination with his or her Form I-94/I-94A indicating F-1 nonimmigrant status would qualify as a List A document for Form I-9 purposes.

Curricular practical training allows students to accept paid alternative work/study, internship, cooperative education, or any other type of required internship or practicum that is offered by sponsoring employers through cooperative agreements with the school. The curricular practical training program must be an integral part of the curriculum of the student's degree program. The designated school official must authorize curricular practical training. The following documents establish the student's identity and employment authorization for Form I-9 purposes and should be recorded in Section 2 under List A of Form I-9:

- The student's foreign passport;
- Form I-20 with the designated school official's endorsement for employment on page 3; and
- A valid Form I-94/I-94A indicating F-1 nonimmigrant status.

Ensure that the student enters his or her admission number from Form I-94/I-94A in Section 1.

For the other types of employment available to eligible foreign students, employment authorization must be granted by USCIS, and will be evidenced by an Employment Authorization Document (Form I-766) issued by USCIS.

Border commuter students who enter the United States with an F-1 visa may only work as part of their curricular practical training or post-completion practical training.

M-1 students may only accept employment if it is part of a practical training program after completion of their course of study. USCIS will issue the Employment Authorization Document (Form I-766) with authorization granted for a maximum period of six months of full-time practical training, depending on the length of the students' full-time study.

The dependents of F-1 and M-1 foreign students will have an F-2 or M-2 visa and are not eligible for employment authorization.

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
Student	Ima	A	

Address *(Street Name and Number)*	Apt. #	Date of Birth *(month/day/year)*
123 University Street (1)		01/01/1991

City	State	Zip Code	Social Security #
Collegetown	Anystate	00000	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):

- ☐ A citizen of the United States
- ☐ A noncitizen national of the United States (see instructions)
- ☐ A lawful permanent resident (Alien #) _____
- ☒ An alien authorized to work (Alien # or Admission #) 11-digit I94#
  until (expiration date, if applicable - *month/day/year*) 05/30/2013

Employee's Signature: Ima A. Student Date *(month/day/year)*: 01/05/2010

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

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).)*

(2)

List A		OR	List B	AND	List C
Document title:	PPT #00XX00000				
Issuing authority:	France exp 010119				
Document #:	I94 #00000000000				
Expiration Date *(if any)*:	05/30/2013				
Document #:	I20 #000000000000				
Expiration Date *(if any)*:	05/30/2013				

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)* 01/05/2010 **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
Booker Smith	Booker Smith	Librarian

Business or Organization Name and Address *(Street Name and Number, City, State, Zip Code)*	Date *(month/day/year)*
College Library, 321 University St. Collegetown, Anystate 00000	01/08/2010

Figure 5: Completing Form I-9 for Students in Curricular Practical Training

(1) Student completes Section 1 and enters his or her 11-digit Form I-94/I-94A number.

(2) Student presents his or her foreign passport, Form I-94/I-94A and Form I-20 that specifies that you are his or her approved employer. You must record these documents in Section 2 as shown.

Optional Practical Training (OPT) for F-1 Students—EAD required

OPT provides practical experience in an F-1 academic student's major area of study. An F-1 academic student may engage in OPT while studying and may work up to 20 hours per week while school is in session and full-time (20 or more hours per week) when school is not in session. After completing their course of study, students also may engage in OPT for work experience. USCIS may authorize an F-1 academic student to have up to 12 months of OPT upon completion of his or her degree program. Some F-1 students may be eligible for an extension of their OPT, as described below.

The designated school official must update Form I-20 to show that he or she has recommended OPT and to show the date employment can begin. OPT employment must be directly related to the student's field of study noted on Form I-20. The student cannot begin OPT until USCIS has granted his or her application for employment authorization.

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
Student (1)	Ima	A	
Address *(Street Name and Number)*		**Apt. #**	**Date of Birth** *(month/day/year)*
123 University Street			01/01/1991
City	**State**	**Zip Code**	**Social Security #**
Collegetown	Anystate	00000	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):

- ☐ A citizen of the United States
- ☐ A noncitizen national of the United States (see instructions)
- ☐ A lawful permanent resident (Alien #) _____
- ☒ An alien authorized to work (Alien # or Admission #) 000-000-000
  until (expiration date, if applicable - *month/day/year*) 12/15/2010

Employee's Signature: Ima A. Student Date *(month/day/year)*: 11/02/2009

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
Address *(Street Name and Number, City, State, Zip Code)*	**Date** *(month/day/year)*

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:	EAD				
Issuing authority:	USCIS	(2)			
Document #:	AAA000000000				
Expiration Date *(if any)*:	12/15/2010				
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)* 11/05/2009 **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
Apple Computer	Apple Computer	Manager
Business or Organization Name and Address *(Street Name and Number, City, State, Zip Code)*		**Date** *(month/day/year)*
Computers R US, 221 University St. Collegetown, Anystate 00000		11/05/2009

Figure 6: Completing Form I-9 for F-1 Nonimmigrant Students with OPT

1. F-1 nonimmigrant student completes Section 1.
2. Record the information from the Employment Authorization Document (Form I-766) in Section 2 of Form I-9.

F-1 OPT STEM Extension

An F-1 academic student who received a bachelor's, master's, or doctoral degree in science, technology, engineering, or mathematics (STEM) may apply for a one-time 17-month extension of his or her OPT. To qualify, a student must have completed a degree included in the DHS STEM Designated Degree Program List found on ICE's website at www.ice.gov/sevis/stemlist.htm. You must be enrolled in E-Verify in good standing and provide your E-Verify company identification number to the student for the student to apply to USCIS for the STEM extension using Form I-765, *Application for Employment Authorization*. A STEM student may change employers, but the new employer must be enrolled in E-Verify before the student begins work for pay.

If the student's Employment Authorization Document (Form I-766) expires while his or her STEM extension application is pending, he or she is authorized to work until USCIS makes a decision on his or her application, but not more than 180 days from the date the student's initial OPT Employment Authorization Document (Form I-766) expires.

The student's expired Employment Authorization Document (Form I-766), together with his or her Form I-20 endorsed by the designated school official recommending the STEM extension are acceptable proof of identity and employment authorization for Form I-9 purposes. Record these documents in Section 2 under List A of Form I-9. You should reverify employment authorization no later than 180 days from the expiration date of the previous Employment Authorization Document (Form I-766).

CAP-GAP

F-1 students who seek to change to H-1B status may be eligible for a cap-gap extension of status and employment authorization through September 30 of the calendar year for which the H-1B petition is being filed, but only if the H-1B status will begin on October 1. The term cap-gap refers to the period between the time a nonimmigrant's F-1 student status would ordinarily end and his or her H-1B status begins. If you employ an F-1 nonimmigrant student in OPT and you filed an H-1B petition for that student, he or she may be able to continue working beyond the expiration date on his or her OPT Employment Authorization Document (Form I-766) while the petition is pending.

There are two types of cap-gap extensions:

1. Extensions of status only.

If a student is in F-1 student status when you file an H-1B petition with an October 1 start date, but the student is not currently participating in OPT, the student will receive a cap-gap extension of his or her F-1 status, but will not be authorized to work until USCIS approves the H-1B petition and the H-1B status begins on October 1.

2. Extensions of F-1 status and OPT.

If a student is in F-1 status when you file an H-1B petition with an October 1 start date and the student is currently participating in post-completion OPT, the student will receive an automatic cap-gap extension of both his or her F-1 student status and his or her authorized period of post-completion OPT. If the H-1B petition is selected and approved, the student will remain authorized to work as an F-1 student with OPT through September 30.

The student's expired OPT Employment Authorization Document (Form I-766), along with Form I-20, which shows that the cap-gap extension was endorsed by the student's designated school official, would qualify as a List A document. You should record these documents in Section 2 under List A (or Section 3 if reverifying) of Form I-9. These documents are acceptable for establishing employment authorization through September 30 of the year in which you filed the H-1B petition or until the H-1B petition is rejected, denied, or withdrawn. You must reverify employment authorization when the Form I-20 cap-gap endorsement expires but not later than October 1.

H-1B Specialty Occupations

U.S. businesses use the H-1B program to temporarily employ foreign workers in specialty occupations that require theoretical or technical expertise in a certain field, such as scientists, engineers or computer programmers. As a U.S. employer, you may submit a Form I-129,

Petition for a Nonimmigrant Worker, to USCIS for nonimmigrants who have certain skills, provided those individuals meet established requirements. You must also include an approved Form ETA 9035, *Labor Certification Application*, with Form I-129.

A newly hired employee with H-1B classification

If USCIS approves your petition, you will receive Form I-797, Notice of Approval, from USCIS, which indicates that your employee is now in H-1B status. Once your employee begins working for you, you must complete a Form I-9 for this employee.

H-1B continuing employment with the same employer

For an H-1B worker to continue working for you beyond the expiration of his or her current H-1B status, indicated by the expiration date on his or her Form I-94/I-94A, you must request an extension of stay before his or her H-1B status expires. Upon submitting a timely filed Form I-129 petition seeking an extension of the employee's status to USCIS, the employee is authorized to continue to work while the petition is being processed for a period not to exceed 240 days, or until USCIS denies your petition, whichever comes first. Write "240-Day Ext." and record the date you submitted Form I-129 to USCIS in the margin of Form I-9 next to Section 2. You must reverify the employee's employment authorization in Section 3 once you receive a decision on the H-1B petition or by the end of the 240-day period, whichever comes first.

See *Completing Form I-9 for Nonimmigrant Categories when Requesting Extensions of Stay* below.

H-1B employees changing employers (porting)

Under the American Competitiveness Act in the Twenty-First Century (AC-21), an H-1B employee who is changing employers within the H-1B program may begin working for you as soon as you file a Form I-129 petition on his or her behalf. To qualify for AC-21 benefits, the new petition must not be frivolous and must have been filed prior to the expiration of the individual's period of authorized stay. You must complete a new Form I-9 for this newly hired employee. An H-1B employee's Form I-94/I-94A issued for employment with the previous employer, along with his or her foreign passport, would qualify as a List A document. You should write "AC-21" and record the date you submitted Form I-129 to USCIS in the margin of Form I-9 next to Section 2.

See *Completing Form I-9 for Nonimmigrant Categories when Requesting Extensions of Stay* below.

For more information about employing H-1B workers, please visit www.uscis.gov.

H-2A Temporary Agricultural Worker Program

The H-2A program allows U.S. employers to bring foreign workers to the United States to fill temporary or seasonal agricultural jobs, usually lasting no longer than one year, for which U.S. workers are not available. Before filing a petition with USCIS, you must first obtain a valid temporary labor certification for H-2A workers from the U.S. Department of Labor (DOL). Once certified, you can include multiple workers when filing a Form I-129 petition requesting H-2A classification from USCIS. If USCIS approves your petition, you can hire the foreign workers for which you petitioned to fill the temporary job.

A newly hired employee in H-2A classification

Complete a new Form I-9 for this employee as you would for any employee. An H-2A worker's unexpired Form I-94/I-94A indicating his or her H-2A status, along with his or her foreign passport, would qualify as a List A document. Record these documents in Section 2 under List A, along with the expiration date of your employee's H-2A status found on his or her Form I-94/I-94A.

H-2A continuing employment with the same employer

You may extend your worker's H-2A status in increments of no longer than one year by timely filing with USCIS a new Form I-129 petition on behalf of the worker. Please note that in most cases, a new temporary labor certification from DOL is required to qualify for an extension of H-2A employment. You must acquire this certification, if required, before you can file Form I-129. To avoid disruption of employment, you should file a petition to extend the employee's employment authorization status well before it expires. Write "240-Day Ext." and record the date you submitted Form I-129 to USCIS in the margin of Form I-9 next to Section 2. USCIS may extend a single H-2A petition for up to two weeks without an additional approved labor certification under certain circumstances. In such a case, write "two-week extension" and record the date you submitted Form I-129 to USCIS in the margin of Form I-9.

Upon submitting a new Form I-129 petition to USCIS, the H-2A worker is authorized to continue to work while the petition is being processed for a period not to exceed 240 days, or until USCIS denies your petition, whichever

comes first. You must reverify the employee's employment authorization in Section 3 once you receive a decision on the H-2A petition or by the end of the 240-day period, whichever comes first.

See *Completing Form I-9 for Nonimmigrant Categories when Requesting Extensions of Stay* below.

H-2A extension with a new employer (porting)

In most cases, an H-2A worker may not begin working for a new employer until USCIS approves the petition requesting a change of employer. However, if you participate in E-Verify, you may employ an H-2A worker as soon as you submit a new Form I-129 petition on his or her behalf. The porting H-2A worker is authorized to work while USCIS processes the petition for a period not to exceed 120 days, or until USCIS denies your petition, whichever comes first. Your newly hired employee must complete Form I-9. The H-2A employee's unexpired Form I-94/I-94A indicating his or her H-2A status, along with his or her foreign passport, would qualify as a List A document. You should write "120-Day Ext." and record the date you submitted Form I-129 to USCIS in the margin of Form I-9 next to Section 2.

If USCIS denies the new petition before the 120-day period expires, USCIS will automatically terminate the H-2A worker's employment authorization within 15 calendar days of its denial decision. USCIS may also terminate employment authorization if you fail to remain an E-Verify participant in good standing. You must reverify the employee's employment authorization in Section 3 either by the end of the 120-day period or once you receive a decision on the H-2A petition, whichever is earlier. If your petition is denied, count 15 days from the date of the denial for the date when the employee's employment authorization expires.

See *Completing Form I-9 for Nonimmigrant Categories when Requesting Extensions of Stay* below.

For more information about employing H-2A workers, please visit www.uscis.gov.

Extensions of Stay for Other Nonimmigrant Categories

Other nonimmigrants also may receive extensions of stay on their nonimmigrant status with the same employer if the employer files a Form I-129 petition with USCIS on their behalf before the nonimmigrant's current immigration status expires. These employees are authorized to continue to work while the petition is being processed for a period not to exceed 240 days, or until USCIS denies your petition, whichever comes first.

Other categories include: E-1, E-2, H-2B, H-3, L-1, O-1, O-2, P-1, P-2, P-3, Q-1, R-1 and TN (per 8 CFR 274a.12 (b)(20)). Note that individuals in the E-1 and E-2 categories are employers.

Employers may be required to submit additional forms with the Form I-129 petition for some of the above nonimmigrant categories. Please go to www.uscis.gov/files/form/i-129instr.pdf for further instructions on these categories.

See *Completing Form I-9 for Nonimmigrant Categories when Requesting Extensions of Stay* below.

For more information about employing other types of nonimmigrant workers, please visit www.uscis.gov

Completing Form I-9 for Nonimmigrant Categories when Requesting Extensions of Stay

You must submit a timely filed Form I-129 petition to USCIS to request an extension of stay on behalf of an employee in one of the above categories. While the petition is pending, your existing employee is authorized to continue to work for you, for up to the applicable time period—120 days to 240 days depending on the category petitioned for—or until USCIS denies your petition, whichever comes first.

You should retain the following documents with the employee's existing Form I-9 to show that you filed for an extension of stay on the employee's behalf:

- A copy of the new Form I-129;
- Proof of payment for filing a new Form I-129; and
- Evidence that you mailed the new Form I-129 to USCIS.

After submitting Form I-129 to USCIS, you will receive Form I-797(C) from USCIS acknowledging that your petition is pending, which you should retain with the employee's Form I-9.

If USCIS approves the application/petition for an extension of stay, you will receive a Form I-797(A), which includes an expiration date and an attached Form I-94A, Arrival/Departure Record. Record the document title, number and expiration date listed on the notice in Section 3 of Form I-9. You must give your employee the

Form I-94A, which is evidence of his or her employment-authorized nonimmigrant status.

Recording Name Changes for Current Employees

You are not required to update Form I-9 when an employee changes his or her name. However, USCIS recommends that you maintain correct information on Forms I-9 and note any name changes in Section 3. Form I-9 regulations do not require that an employee present you with documentation to show that the employee has changed his or her name. However, you may take steps —such as asking the employee for the basis of the name change—to be reasonably assured of the employee's identity and the veracity of the employee's claim of a name change. If provided by the employee, you may accept evidence of the name change to keep with Form I-9, so that your actions are well-documented if the government asks to inspect your Forms I-9.

For E-Verify employers:

- USCIS recommends that you encourage your employees to record their legal name change with the Social Security Administration to avoid mismatches in E-Verify.

- Federal contractors who are subject to the FAR E-Verify clause and who choose to verify existing employees by updating existing Forms I-9 have special rules pertaining to when they must complete new Forms I-9. Under this option, a new Form I-9 must be completed when an employee changes his or her name. For more information, see the *E-Verify Supplemental Guide for Federal Contractors*, available at www.dhs.gov/E-Verify.

Reverifying or Updating Employment Authorization for Rehired Employees

If you rehire an employee within three years of his or her original hire date and you have previously completed Form I-9 for that employee, you may complete a new Form I-9 or you may be able to rely on the previously completed Form I-9 in certain circumstances.

Inspect the previously completed Form I-9 and:

1. If the employee's previously completed Form I-9 indicates that the individual is still eligible to work, you are not required to complete a new Form I-9 but may rely on the previously completed Form I-9 to meet the verification requirements for this employee. You must update the previously completed Form I-9 in Section 3 with the date of rehire. OR

2. If you determine that the employee's employment authorization has expired, you must reverify employment authorization in Section 3 of the previously completed Form I-9, or use a new Form I-9 if Section 3 has already been used.

To reverify:

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.

4. If you are reverifying on a new Form I-9, write the employee's name in Section 1 and complete Section 3 of the new Form I-9, retaining the new Form I-9 with the previously completed Form I-9.

To update (optional), you must:

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

2. Sign and date Section 3.

3. If you are updating on a new Form I-9, write the employee's name in Section 1 and use Section 3 of the new Form I-9 to update, retaining the new Form I-9 with the previously completed Form I-9.

NOTE: You must complete a new Form I-9 if the version of the form you used for the previous verification is no longer valid. Please check www.uscis.gov/i-9 for the currently valid Form(s) I-9.

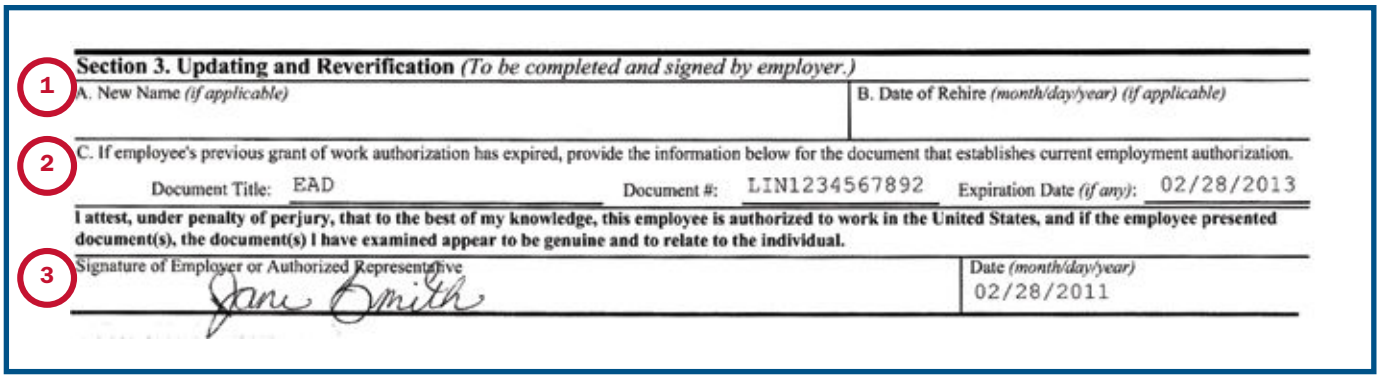


Figure 7: Reverification of Employment Authorization for Rehires

1. Employer records the employee's new name, if applicable, and date of rehire, if applicable.
2. Employer records the document title, number, and expiration date (if any) of document(s) presented.
3. Employer signs and dates Section 3.

Leaves of Absence, Layoffs, Corporate Mergers and Other Interruptions of Employment

You must complete a new Form I-9 when a hire takes place, unless you are rehiring an employee within three years of the initial hire date. However, in certain situations, a hire is not considered to have taken place despite an interruption in employment. In case of an interruption in employment, you should determine whether the employee is continuing in his or her employment and has a reasonable expectation of employment at all times.

These situations constitute continuing employment:

- Approved paid or unpaid leave on account of study, illness or disability of a family member, illness or pregnancy, maternity or paternity leave, vacation, union business, or other temporary leave approved by the employer.
- Promotions, demotions or pay raises.
- Temporary layoff for lack of work.
- Strikes or labor disputes.
- Reinstatement after disciplinary suspension for wrongful termination found unjustified by any court, arbitrator or administrative body, or otherwise resolved through reinstatement or settlement.
- Transfer from one distinct unit of an employer to another distinct unit of the same employer; the employer may transfer the employee's Form I-9 to the receiving unit.
- Seasonal employment.
- Continuing employment with a related, successor, or reorganized employer, provided that the employer obtains and maintains, from the previous employer, records and Forms I-9 where applicable. A related, successor, or reorganized employer includes:
    - The same employer at another location;
    - An employer who continues to employ some or all of a previous employer's workforce in cases involving a corporate reorganization, merger, or sale of stock or assets;
    - An employer who continues to employ any employee of another employer's workforce, where both employers belong to the same multi-employer association and the employee continues to work in the same bargaining unit under the same collective bargaining agreement. For these purposes, any agent designated to complete and maintain Forms I-9 must record the employee's date of hire and/or termination

each time the employee is hired and/or terminated by an employer of the multi-employer association.

NOTE: The related, successor, or reorganized employer may choose to treat these employees as new hires and complete new Forms I-9 for each of them.

To determine whether an employee continuing in his or employment had a reasonable expectation of employment at all times, you should consider several factors, including, but not limited to:

- The individual was employed on a regular and substantial basis. A determination of a regular and substantial basis is established by a comparison of other workers similarly employed by the employer.
- The individual complied with the employer's established and published policy regarding his or her absence.
- The employer's past history of recalling absent employees for employment indicates a likelihood that the individual in question will resume employment with the employer within a reasonable time in the future.
- The former position held by the individual has not been taken permanently by another worker.
- The individual has not sought or obtained benefits during his or her absence from employment with the employer that are inconsistent with an expectation of resuming employment within a reasonable time in the future.
- The financial condition of the employer indicates the ability of the employer to permit the individual in question to resume employment within a reasonable time in the future.
- The oral and/or written communication between employer, the employer's supervisory employees and the individual indicates that it is reasonably likely that the individual will resume employment within a reasonable time in the future.

Continue to maintain and store the previously completed Form I-9 as if there was no interruption in employment. It is advisable to inspect the previously completed Form I-9 and, if necessary, update the form or conduct reverification.

If you determine that your employee was terminated and is now rehired, and the rehire occurs within three years from the date the original Form I-9 was completed, you may have an option to complete a new Form I-9 or rely on the original Form I-9.

Part Three
Photocopying and Retaining Form I-9

Employers must retain an employee's completed Form I-9 for as long as the individual works for the employer. Once the individual's employment has terminated, the employer must determine how long after termination the Form I-9 must be retained, which is either three years after the date of hire, or one year after the date employment is terminated, whichever is later. Forms I-9 can be retained either on paper or microform, or electronically.

To store Forms I-9 electronically, you may use any electronic recordkeeping, attestation, and retention system that complies with DHS standards, including 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* on the next page for additional requirements.)

1. Enter date employee started work: _____

Add 3 years to Line 1 — A. _____

2. Termination date: _____

Add 1 year to Line 2 — B. _____

Which date is later: A or B? Enter later date here. — C. _____

Store Form I-9 until this date.

Figure 8: Form I-9 Retention Calculator

Paper Retention of Forms I-9

Forms I-9 can be signed and stored in paper format with original handwritten signatures. Simply photocopy or print a 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.

Only the pages of the Form I-9 on which you or the employee enter data must be retained. You may retain completed paper forms on-site 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 three days of an inspection request from DHS, OSC, or U.S. Department of Labor (DOL) officers.

Microform Retention of Forms I-9

You may retain copies of original signed Forms I-9 on microfilm or microfiche. Only the pages of the Form I-9 on which you or the employee enter data must be retained. To do so, you should:

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 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.

Electronic Forms I-9

USCIS provides a Portable Document Format (.pdf) fillable-printable Form I-9 from its website, www.uscis.gov. In addition, you may generate and retain Form I-9 electronically as long as the employee receives instructions for completing the form and:

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; and
4. The standards specified in the regulations are met. (8 CFR Part 274a.2(e), (f), (g), (h) and (i) as applicable.)

Electronic Retention of Forms I-9

Employers may use paper, electronic systems, or a combination of paper and electronic systems. 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. An indexing system that permits the identification and retrieval for viewing or reproducing of relevant documents and records maintained in an electronic storage system; and
5. The ability to reproduce legible and readable paper copies.

If you choose to complete or retain Forms I-9 electronically, you may use one or more electronic generation or storage systems, as long as Forms I-9 retained in the system remain fully accessible. You may change electronic storage systems as long as the systems meet the performance requirement of the regulations. 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 that permits the identification and retrieval of relevant documents and records maintained in an electronic storage system. You are not required to maintain separate description databases for each system if comparable results can be achieved without separate description databases.

Only the pages of the Form I-9 on which you or the employee enter data must be retained.

NOTE: Forms I-9 must be stored for three years after the date you hire an employee, or one year after the employee's employment is terminated, whichever is later, which can result in a long retention period. 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.

Documentation of Electronic Storage Systems

If you choose to complete or retain Forms I-9 electronically, you must maintain and make available upon request documentation of the business processes that:

1. Create the retained Forms I-9,
2. Modify and maintain the retained Forms I-9, and
3. 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)).

Electronic Signature of Forms I-9

You may choose to fill out a paper Form I-9 and scan and upload the original 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. The system must also:

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. Upon request of the employee, provide a printed confirmation of the transaction to the person providing the signature.

Employers who complete Forms I-9 electronically must attest to the required information in Section 2 of Form I-9. The system used to capture the electronic signature should include a method to acknowledge that the attestation to be signed has been read by the signatory.

NOTE: If you choose to use an 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(b)(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, completes, updates, modifies, alters, 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(b)(3) of the INA (8 CFR Part 274a.2(g)(2)).

Retaining Copies of Form I-9 Documentation

You may choose to copy or scan documents an employee presents when completing Form I-9, which you may, but are not required to, 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 an employee's documents, you must do so for all employees, regardless of national origin or citizenship status, or you may be in violation of anti-discrimination laws.

Copies that are scanned and stored electronically must be retrievable consistent with DHS's standards on electronic retention, documentation, security, and electronic signatures for employers and employees, as specified in 8 CFR Part 274a.2(b)(3).

USCIS recommends that employers who choose to retain copies of employees' documentation keep those copies together with their Forms I-9.

Inspection

The Immigration and Nationality Act (INA) specifically authorizes DHS, OSC, and DOL to inspect Forms I-9. DHS, OSC, and DOL provide employers a minimum of three 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 may 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 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.

NOTE: E-Verify employers should provide E-Verify case summaries in addition to Forms I-9 when they receive a request for inspection.

Part Four
Unlawful Discrimination and Penalties for Prohibited Practices

Unlawful Discrimination

General Provisions

The anti-discrimination provision of the Immigration and Nationality Act (INA), as amended, prohibits four 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. The U.S. Equal Employment Opportunity Commission (EEOC) enforces Title VII of the Civil Rights Act of 1964 (Title VII), as amended, and other federal laws that prohibit employment discrimination based on race, color, national origin, religion, sex, age, disability and genetic information.

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. OSC and EEOC share jurisdiction over national origin discrimination charges. Generally, EEOC has jurisdiction over larger employers with 15 or more employees, whereas OSC has jurisdiction over smaller employers with more than three and less than 15 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. 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.

Types of Employment Discrimination Prohibited Under the INA

Document Abuse

Discriminatory documentary practices related to verifying the employment authorization and identity of employees during the 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 the 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 to relate 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 present particular documents the employer does not require other employees to present.

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 four or more employees.

Citizenship Status Discrimination

Citizenship or immigration status discrimination occurs when an employer treats employees differently based on their real or perceived citizenship or immigration status with respect to hiring, firing, recruitment, or referral for a fee. U.S. citizens, recent permanent residents, tem-

porary residents under the IRCA legalization program, asylees, and refugees are protected. The INA's provision against citizenship or immigration status discrimination covers employers with four or more employees.

National Origin Discrimination

National origin discrimination under the INA occurs when an employer treats employees differently based on their national origin with respect to hiring, firing, recruitment, or referral for a fee. An employee's national origin relates to the employee's place of birth, country of origin, ethnicity, ancestry, native language, accent, or the perception that he or she looks or sounds "foreign." All U.S. citizens and employment-authorized individuals are protected from national origin discrimination. The INA's provision against national origin discrimination generally covers employers with more than three and less than 15 employees. EEOC has jurisdiction over national origin claims involving employers with 15 or more 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 and Other Federal Anti-discrimination Laws

As noted above, Title VII and other federal laws also prohibit employment discrimination on the basis of national origin, as well as race, color, religion, sex, age, disability and genetic information. EEOC has jurisdiction over 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 the Form I-9 Process

In practice, you should treat employees equally when recruiting and hiring, and when verifying employment authorization and identity during the 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 employment-authorized aliens may present 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 (Form I-766) 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.

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 noncitizen 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 against you 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 his or her right to file a complaint with an administrative law judge within 90 days after receiving the notice. Additionally, 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 a settlement agreement 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 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, Title VII, and other federal anti-discrimination law. Retaliation violates federal law.

Additional Information

For more information relating to discrimination based upon national origin and citizenship or immigration status, and discrimination during the Form I-9 process, contact OSC at 1-800-255-8155 (employer hotline) or 1-800-237-2515 (TDD for hearing impaired); or visit OSC's website at www.justice.gov/crt/osc.

For more information on Title VII and EEOC policies and procedures, call 1-800-669-4000, or 1-800-669-6820 (TDD for hearing impaired), or visit EEOC's website at www.eeoc.gov.

Penalties for Prohibited Practices

Unlawful Employment

Civil Penalties

DHS or an administrative law judge 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 an 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 or an administrative law judge 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), you may be ordered 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
3. Subsequent Offenses: Not less than $4,300 and not more than $16,000 for each unauthorized alien.

You will be considered 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 (found at 8 U.S.C. 1324a(a)(1)(A) or (2)), 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 may 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 six 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 five 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 anti-discrimination laws about the requirements of these laws.

The court may award attorneys' 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 or other prohibited discrimination under Title VII or other federal law, 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, benefits, 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 an NIF when it intends to impose penalties. Persons who receive an 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 Immigration and Nationality Act (INA), it is unlawful for an agricultural association, agricultural employer, or farm labor contractor to hire, 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 three business days of the date employment begins, or, in the case of an individual hired for fewer than three 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 Form I-9 for three 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 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 confirm 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 E-Verify 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 your new employee, create a case in E-Verify that includes information from Sections 1 and 2 of Form I-9. After creating the case, you will receive a response from E-Verify regarding the employment authorization of the employee. 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 E-Verify is unable to immediately confirm the 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 case 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 use E-Verify for all new hires, both U.S. citizens and noncitizens, and may not use the system selectively. You may not prescreen applicants for employment, check employees hired before the company became a participant in E-Verify (except contractors with a federal contract that requires use of 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 strengthens the Form I-9 employment eligibility verification process that all employers, by law, must follow. By adding E-Verify to the existing Form I-9 employment eligibility verification process, a company can benefit from knowing that it has taken constructive steps toward maintaining a legal workforce.

You can enroll online for E-Verify at www.dhs.gov/E-Verify, which provides instructions for completing the enrollment process. For more information, contact E-Verify at 888-464-4218, or visit the website listed above.

Federal Contractors

On November 14, 2008, the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council issued a final rule amending the Federal Acquisition Regulation (FAR) (FAR case 2007-013, Employment Eligibility Verification). This regulation was originally scheduled to be effective on January 15, 2009, but the effective date was delayed until September 8, 2009. The regulation requires contractors with a federal contract that contains a FAR E-Verify clause to use E-Verify for their new hires and all employees (existing and new) assigned to the contract. Federal contracts issued on or after September 8, 2009, as well as older contracts that have been modified, may contain the FAR E-Verify clause.

Federal contractors who have a Federal contract that contains the FAR E-Verify clause must follow special rules when completing and updating Forms I-9. For more information, please see the *E-Verify Supplemental Guide for Federal Contractors* available at www.dhs.gov/E-Verify.

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 Handbook.

Questions About the Verification Process

1. **Q. Do citizens and noncitizen nationals of the United States need to complete Form I-9?**

   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 Commonwealth of 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.

NOTE: Citizens of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI) are not noncitizen nationals.

2. **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 for pay. However, you may complete the form earlier, as long as the person has been offered and has accepted the job. You may not use the Form I-9 process to screen job applicants.

3. **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 may not use a contract, subcontract or exchange to obtain the labor or services of an employee knowing that the employee is unauthorized to work.

4. **Q. May I fire an employee who fails to produce the required documents within three business days of his or her start date?**

   A. Yes. You may terminate an employee who fails to produce the required document or documents, or an acceptable receipt for a document, within three business days of the date employment begins.

5. **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 individual, unless the government can show you had knowledge of the unauthorized status of the employee.

Questions about Documents

6. **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 the

Form I-9 process, contact OSC at 1-800-255-8155 (employers) or 1-800-237-2515 (TDD) or visit OSC's website at www.justice.gov/crt/osc.

NOTE: An employer participating in E-Verify can only accept a List B document with a photograph.

7. 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.

8. 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.

9. 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.

10. Q. Why was documentation for citizens of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI) added to the Lists 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. An amendment to the Compacts eliminated the need for citizens of these two countries to obtain Employment Authorization Documents (Forms I-766) to work in the United States. However, FSM and RMI citizens may also apply for Employment Authorization Documents (Forms I-766) if they wish, or present a combination of List B and List C documents. The List A document specific to FSM and RMI citizens is a valid FSM or RMI passport with a Form I-94/I-94A indicating nonimmigrant admission under one of the Compacts.

11. Q. How do I know whether a Native American tribal document issued by a U.S. tribe presented by my employee is acceptable for Form I-9 purposes?

A. In order to be acceptable, a Native American tribal document should be issued by a tribe recognized by the U.S. federal government. Because federal recognition of tribes can change over time, to determine if the tribe is federally recognized, please check the Bureau of Indian Affairs website at www.bia.gov.

12. Q. The Native American tribal document is listed on both List B and List C of Form I-9. Does this mean that my employee may present this document to prove both identity and employment authorization?

A. If an employee presents a Native American tribal document, 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.

13. Q. Can the Certificate of Indian Status, commonly referred to as the status card or INAC card, be used as a Native American tribal document for Form I-9 purposes?

A. No. This card is not a Native American tribal document. It is issued by Indian and Northern

Affairs Canada (INAC), which is a part of the Canadian government.

14. 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 Form 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.

15. 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 (Forms I-766) and Permanent Resident Cards (Forms I-551) that appear to be expired on their face, but have been extended by USCIS.

For example, Temporary Protected Status (TPS) beneficiaries whose Employment Authorization Documents (Forms I-766) appear to be expired may be automatically extended in a Federal Register notice. These individuals may continue to work based on their expired Employment Authorization Documents (Forms I-766) during the automatic extension period specified in the Federal Register notice. When the automatic extension of the Employment Authorization Document (Form I-766) expires, you must reverify the employee's employment authorization.

Please see Part 2 for more information on TPS.

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

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

A. Some INS-issued documents, such as older versions of the Alien Registration Receipt Card (Form I-551), do not have expiration dates, and are still acceptable for Form I-9 purposes. However, all subsequent DHS-issued Permanent Resident Cards (Forms I-551) contain two-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 on the face of the document. Generally, Employment Authorization Documents (Forms I-766) must be reverified upon expiration.

17. Q. If my employee presents a Social Security card that is laminated or is unsigned, may I accept such a card 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. You may accept a Social Security card that has not been signed.

18. 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 or a receipt for a replacement card issued by SSA is acceptable.

19. 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.

20. 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.

21. 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. The additional space is provided in case an employee presents a List A document that is really a combination of more than one document. For example, one of the documents found in List A is a foreign passport with an attached Form I-94/I-94A, bearing the same name as the passport and containing endorsement of the individual's nonimmigrant status, if that status authorizes the individual 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/I-94A. In some cases, an employer may need to record document information for more than two documents (e.g., J-1 exchange visitors; porting H-1B nonimmigrants). Because Section 2 only provides space for listing two documents, an employer may need to use the margin in Section 2 to record document information from any additional documents.

22. 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 Photo Matching, currently the U.S. passport and passport card, 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. Other documents may be added to Photo Matching in the future. 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 must do so for all employees. 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.

23. Q. When can employees present receipts for documents in lieu of actual documents from the Lists of Acceptable Documents?

A. The "receipt rule" is designed to cover situations in which an employee is authorized to work at the time of initial hire or reverification, but he or she is not in possession of a document listed on the Lists of Acceptable Documents accompanying 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 or Section 3 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/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/I-94A if the I-551 stamp does not contain an expiration date.

3. A Form I-94/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 an Employment Authorization Document (Form I-766) or an unrestricted Social Security card in combination with a List B document 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.

24. Q. My employee has applied for a new Employment Authorization Document (Form I-766). Is the USCIS receipt notice (Form I-797) covered by the Form I-9 receipt rule?

A. In this case, the USCIS receipt notice (Form I-797C) is not an acceptable receipt for Form I-9 purposes. An employee with temporary employment authorization and holding an Employment Authorization Document (Form I-766) should apply for a new card at least 90 days before the expiration of his or her current document. If your employee applied for a new card at least 90 days before his or her current card expired but is nearing the end of the 90-day processing period without a decision from USCIS, instruct your employee to call the National Customer Service Center at 1-800-375-5283 or 1-800-767-1833 (TDD) about the status of his or her application. USCIS strongly encourages that employees first call the National Customer Service Center before visiting a USCIS office to prevent possible delays. If your employee prefers to check on the status of his or her application at a USCIS office, he or she may schedule an InfoPass appointment at www.infopass.uscis.gov. When your employee's current Employment Authorization Document (Form I-766) expires, he or she must be able to present a List A document, a List C document, or an acceptable receipt under the receipt rule to satisfy Form I-9 reverification requirements.

25. Q. My nonimmigrant employee has presented a foreign passport with a Form I-94/I-94A (List A, Item 5). How do I know if this employee is authorized to work?

A. You, as the employer, likely have submitted a petition to USCIS on the nonimmigrant employee'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 the North American Free Trade Agreement (NAFTA) with an offer letter from your company. This nonimmigrant worker will have a Form I-94/I-94A indicating a TN immigration status, and may choose to present it with his or her passport under List A. The employee may also present Form I-94/I-94A indicating a TN immigration status as a List C document, in which case your employee will need to present a List B document (e.g., Canadian driver's license) to satisfy Section 2 of Form I-9.

2. A student working in on-campus employment or participating in curricular practical training. (See Part 2.)

3. A J-1 exchange visitor. (See Part 2.)

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 only for the employer who petitioned on their behalf. 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. See Part 2 for more information on nonimmigrant employees.

26. Q. My new employee presented two documents to complete Form I-9, each containing a different last name. One document matches the name she entered in Section 1. The employee explained that she had just gotten married and changed her last name, but had not yet changed the name on the other document. Can I accept the document with the different name?

A. You may accept a document with a different name than the name entered in Section 1 provid-

ed that you resolve the question of whether the document reasonably relates to the employee. You also may wish to attach a brief memo to Form I-9 stating the reason for the name discrepancy, along with any supporting documentation the employee provides. An employee may provide documentation to support his or her name change, but is not required to do so. If, however, you determine that the document with a different name does not reasonably appear to be genuine and to relate to her, you may ask her to provide other documents from the Lists of Acceptable Documents on Form I-9.

27. Q. My employee entered a compound last name in Section 1 of Form I-9. The documents she presented contain only one of these names. Can I accept this document?

A. DHS does not require employees to use any specific naming standard for Form I-9. If a new employee enters more than one last name in Section 1, but presents a document that contains only one of those last names, the document he or she presents for Section 2 is acceptable as long as you are satisfied that the document reasonably appears to be genuine and to relate to him or her. It is helpful for individuals attesting to lawful permanent resident status who have more than one name to enter their name on Form I-9 as it appears on their Permanent Resident Card (Form I-551).

28. Q. The name on the document my employee presented to me is spelled slightly differently than the name she entered in Section 1 of Form I-9. Can I accept this document?

A. If the document contains a slight spelling variation, and the employee has a reasonable explanation for the variation, the document is acceptable as long as you are satisfied that the document otherwise reasonably appears to be genuine and to relate to him or her.

29. 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 reverification, an employee must be allowed to choose what documentation to present from either List A or List C. 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.

30. Q. Can DHS double-check the status of an individual I hired, or "run" his or her number (typically an Alien Number or Social Security number) and tell me if it is valid?

A. DHS cannot double-check a number for you, unless you participate in E-Verify, which confirms 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 reason to believe documentation may not be valid, in which case ICE may investigate the possible violation of law.

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

A. Yes, you can accept a document issued by INS if the document is unexpired and reasonably appears to be genuine and to relate to the individual presenting it. 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 or Forms I-94 noting asylee status, 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.

Questions about Completing and Retaining Form I-9

32. Q. Can an employee leave any part of Section 1 on Form I-9 blank?

A. Employees must complete every applicable field in Section 1 of Form I-9 with the exception of the field requesting the employee's Social Security number. However, employees must enter their Social Security number in this field if you participate in E-Verify.

NOTE: Not all employees who attest to being an Alien Authorized to Work will have an expiration date for their employment authorization. However, refugees and asylees who present an Employment Authorization Document (Form I-766) have employment authorization that does not expire. These individuals should put "N/A" where Section 1 asks for an expiration date.

33. Q. How do I correct a mistake on an employee's Form I-9?

A. The best way to correct Form I-9 is to line through the portions of the form that contain incorrect information, then enter the correct information. Initial and date your correction. If you have previously made changes on Forms I-9 in White-Out instead, USCIS recommends that you attach a note to the corrected Forms I-9 explaining what happened. Be sure to sign and date the note.

34.Q. What should I do if I need to reverify an employee who filled out an earlier version of Form I-9?

A. If you used a version of Form I-9 when you originally verified the employee that is no longer valid, and you are now reverifying the employment authorization of that employee, the employee must provide any document(s) he or she chooses from the current Lists of Acceptable Documents. Enter this new document(s) in Section 3 of the current version of Form I-9 and retain it with the previously completed Form I-9. To see if your form is an acceptable version of Form I-9, go to www.uscis.gov/i-9.

For more information on reverification, please see Part 2.

35. 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 office 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.

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

A. To continue to employ an individual whose employment authorization has expired, you will need to reverify him or her in Section 3 of Form I-9. Reverification must occur no later than the date that employment authorization 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 current 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 will expire and provide the employee with at least 90 days notice prior to the expiration date of the employment authorization.

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.

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

A. No. 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 individual is qualified for a particular job may be an unfair immigration-related employment practice in violation of the anti-discrimination provision of the INA.

38. 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 on your behalf, such as a notary public. Please note that if someone else fills out Form I-9 on your behalf, he or she must carry out full Form I-9 responsibilities. However, you are still liable for any violations in connection with the form or the verification process.

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.

39. 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.

40. 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:

- 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
- 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 the 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 authorized to work,
6. The history of the party's previous violations and
7. Other relevant factors.

41. Q. Our company acquired another company, along with its employees. Are we required to complete Forms I-9 for these employees?

A. Employers who have acquired another company or have merged with another company have two options:

- **Option A:** Treat all acquired employees as new hires and complete a new Form I-9 for each and every individual irrespective of when that employee was originally hired. Enter the effective date of acquisition or merger as the date the employee began employment in Section 2 of the new Form I-9.

- **Option B:** Treat acquired individuals as employees who are continuing in their uninterrupted employment status and retain the previous owner's Forms I-9 for each acquired employee. Note that you are liable for any errors or omissions on the previously completed Forms I-9.

NOTE: Employees hired on or before November 6, 1986, who are continuing in their employment and have a reasonable expectation of employment at all times, are exempt from completing Form I-9 and cannot be verified in E-Verify. For making this determination, see 8 CFR 274a.2(b)(1)(B)(viii) and 8 CFR 274a.7. If you determine that an employee hired on or before November 6, 1986 is not continuing in his or her employment or does not have a reasonable expectation of employment at all times, the employee may be required to complete a Form I-9.

If you choose to complete new Forms I-9 (Option A), in order to ensure that you do not engage in discrimination, you must do so for all of your acquired employees, without regard to actual or perceived citizenship status or national origin.

Federal contractors with the FAR E-Verify clause have special rules relating to the verification of existing employees. For more information, see the *E-Verify Supplemental Guide for Federal Contractors* at www.uscis.gov/E-Verify.

Mergers and acquisitions can be a very complicated area of the law and determining whether or not employees are continuing in their employment with the new entity for Form I-9 purposes is often not clear. For that reason USCIS strongly recommends that any business confronted with this issue should consider retaining private legal counsel.

42. Q. How does OSC obtain the necessary information 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.

43. 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.

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

A. No, with three exceptions: Agricultural associations, agricultural employers, and farm labor contractors must complete Forms I-9 on all individuals who are recruited or referred for a fee. However, all recruiters and referrers for a fee must complete Forms I-9 for their own employees hired after November 6, 1986. Also, all recruiters and referrers for a fee are liable for knowingly recruiting or referring for a fee individuals not authorized to work in the United States and must comply with federal anti-discrimination laws.

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

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

46. 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 separate business entity, such as a corporation or partnership. If the person is an employee of a separate business entity, he or she, and any other employees, will have to complete Form I-9.

47. Q. I have heard that some state employment agencies, commonly known as state workforce agencies, can certify that people they refer are authorized to work. Is that true?

A. Yes. A state employment agency may choose to verify the employment authorization and identity of an individual it refers for employment on Form I-9. In such a case, the agency must issue a certification to you so that you receive it within 21 business days from the date the referred individual is hired. If an agency refers a potential employee to you with a job order, other appropriate referral form, or telephonically authorized referral, 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. Before receiving the certification, you must retain the job order, referral form, or annotation reflecting the telephonically authorized referral as you would Forms I-9. When you receive the certification, 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.

48. Q. How can I protect private information on Forms I-9?

A. Since Form I-9 contains an employee's private information, and you are required to retain forms for specific periods of time, you should ensure that you protect that private information, and that it is used only for Form I-9 purposes. To protect employees' private information, ensure that completed Forms I-9 and all supporting documents, including photocopies of documents, as well as information regarding employment authorization if you participate in E-Verify, are stored in a safe, secure location that only authorized individuals can access. For more information on protecting electronically stored Forms I-9, see Part 3.

Questions about Avoiding Discrimination

49. 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 to 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 based on their national origin or citizenship status for closer scrutiny, you are unlikely to be found to have engaged in unlawful discrimination.

50. Q. I recently hired someone who checked the fourth box in the immigration status attestation section on Section 1 of Form I-9, indicating that he is an alien. However, his Form I-94 does not contain an 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 nonimmigrants such as certain citizens of the Federated States of Micronesia and the Republic of the Marshall Islands, are authorized to work because of their status. These nonimmigrants may present a Form I-94/I-94A that does not have an expiration date or any combination of documents from the List of Acceptable Documents. Such individuals should write "N/A" in Section 1 next to the box indicating "An alien authorized to work." The refusal to hire employment-authorized individuals 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.

NOTE: Some foreign students who are authorized to work also may not have a specific expiration date for their employment authorization. See Part 2 for more information.

Questions about Employees Hired On or Before November 6, 1986

51. Q. Will I be subject to employer sanctions penalties if an employee I hired on or before November 6, 1986 is in the United States illegally?

A. No. You will not be subject to employer sanctions penalties for retaining an employee who is not authorized to work in the United States if the employee was hired on or before November 6, 1986. However, the fact that the employee was on your payroll on or before November 6, 1986, does not give him or her the right to remain in the United States. Unless the employee obtains permission from DHS to remain in the United States, he or she is subject to apprehension and removal from the United States.

Questions about Different Versions of Form I-9

52. 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 and/or translator to assist them in completing the form.

53. 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.

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

A. No, employers must use the current version of Form I-9. A revision date with an "N" next to it indicates that all previous versions with earlier revision dates, in English or Spanish, are no longer valid. You may also use subsequent versions that have a "Y" next to the revision date. If in doubt, go to www.uscis.gov/i-9 to view or download the most current form.

55. 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 website at www.uscis.gov/i-9. For employers without internet access, you may call the USCIS Forms Request Line toll-free at 1-800-870-3676.

Questions about Military IDs

56. 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. 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.

Questions about the Commonwealth of the Northern Mariana Islands (CNMI)

The following questions and answers apply to employers and employees located in the CNMI only.

57. Q. What is Form I-9 CNMI?

A. Form I-9 CNMI is a version of Form I-9 designated for use only in the CNMI by CNMI employers for their new hires on or after November 28, 2009. Form I-9 CNMI allows for the use of several types of employment authorization documentation that are unique to the CNMI, in addition to those acceptable in other parts of the United States. Form I-9 CNMI requirements apply to ALL new employees hired on or after November 28, 2009, regardless of citizenship.

58. Q. Do I need to complete Form I-9 CNMI for my current employees?

A. You only need to complete Form I-9 CNMI for employees hired on or after November 28, 2009. You should not complete Form I-9 CNMI for any employees already working for you on November 27, 2009, even if you assign them new job responsibilities within your company.

To obtain Forms I-9 CNMI, call the USCIS Forms Request Line toll-free at (800) 870-3676 or download Forms I-9 CNMI at www.uscis.gov/files/form/i-9_cnmi.pdf

For more information on federal immigration law in the CNMI, go to www.uscis.gov/CNMI.

59. Q. What documentation may be used to complete Form I-9 CNMI?

A. In addition to the acceptable documentation generally provided for Form I-9 use, the following documents may be used on or before November 27, 2011 as evidence of identity and employment authorization to satisfy Form I-9 CNMI requirements:

- An unexpired foreign passport and an Alien Entry Permit with red band issued to the individual by the CNMI Office of the Attorney General, Division of Immigration, before November 28, 2009 as long as the period of employment authorization has not yet expired;
- An unexpired foreign passport and Temporary Work Authorization Letter (including an umbrella permit as discussed further below) issued by the CNMI Department of Labor before November 28, 2009, and containing the name and photograph of the individual, as long as the period of employment authorization has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the Temporary Work Authorization Letter; or
- An unexpired foreign passport and a permanent resident card issued by the CNMI government.

60. Q. Is an umbrella permit acceptable documentation of employment authorization for Form I-9 CNMI?

A. An umbrella permit is the common name for several types of Transition Conditional permits issued by the CNMI Department of Labor (CNMI DOL) or the CNMI Department of Commerce. To be evidence of employment authorization for Form I-9 CNMI, an umbrella permit must state on its face that it authorizes employment. The CNMI government widely issued umbrella permits shortly before the November 28, 2009, transition to federal immigration law. DHS is currently aware of the following types of umbrella permits:

- Category 240K Foreign National Worker Permit, which authorizes the permit holder to work for any private sector employer in the CNMI until November 27, 2011.
- Category 240D Immediate Relative Permit (immediate relative of U.S. citizen), which authorizes the permit holder to work for any employer in the CNMI until November 27, 2011.
- Category 240G, 240N, 240O Investment and Business Permit, which authorizes the permit holder to work for any employer in the CNMI until November 27, 2011.
- Category 240H Foreign Student, which authorizes the permit holder to work for any

employer in the CNMI until November 27, 2011.

- Category 240B CNMI Government Permit, which authorizes the permit holder to work for the CNMI government until November 27, 2011.

- Category 240E Immediate Relative Permit (immediate relative of sponsoring alien), which does not provide for employment authorization and, therefore, is not an acceptable document for Form I-9 CNMI. Holders of this permit are not authorized to work in the CNMI unless they have another basis for employment authorization.

Umbrella permits have the seal of the CNMI DOL at the upper right. The letterheads vary: CNMI DOL (for Category 240K); CNMI Department of Commerce (for categories 240G, 240N, 240O, and 240H); or CNMI Division of Immigration (for categories 240D and 240E). The umbrella permit must contain the employee's name and photograph.

Employees who present an umbrella permit for Form I-9 CNMI must also present an unexpired foreign passport. These two documents are considered List A documentation of identity and employment authorization.

61. Q. As an employer, may I demand that my new employee present his or her umbrella permit when completing Form I-9 CNMI?

A. No. The employee may present any acceptable document or document combination, as described in the Form I-9 CNMI instructions. The documents must reasonably appear on their face to be genuine and to relate to the individual. Employers who require employees to present specific Form I-9 CNMI documents may be committing an unfair immigration-related employment practice under section 274B of the INA, which may result in fines and penalties, as well as possible back pay for victims of discrimination. For more information on employment discrimination, please see Part 4.

62. Q. My employee's umbrella permit has two dates. Which one controls the length of that employee's employment authorization?

A. Holders of umbrella permits authorizing employment may work until November 27, 2011, even if the permit contains two dates. Umbrella permits contain a date with the legend "Next filing date to avoid revocation." They also state that the permit is without effect after November 27, 2011. If these two dates are different, the holder of the umbrella permit is authorized to work in the CNMI until November 27, 2011. When completing Form I-9 CNMI, if an employee changes employers, the date Nov. 27, 2011 should be used as the expiration date for employment authorization in Section 1 of the form and as the document expiration date in Section 2 of the form.

63. Q. As a CNMI employer, do I need to obtain CNMI DOL approval to hire an umbrella permit holder?

A. No. Federal law does not require you to obtain CNMI DOL approval to hire an individual with an umbrella permit in the CNMI. Your new employee must fully complete Section 1 of the Form I-9 CNMI no later than the date that he or she begins work, and you must examine the employee's documentation and complete Section 2 of the Form I-9 within three business days after the date the employee begins work.

64. Q. What should my employee do if his or her umbrella permit has been lost, stolen, or damaged?

A. DHS cannot replace an umbrella permit for that employee. That employee should contact the CNMI DOL regarding its procedures for replacement of umbrella permits that have been lost, stolen, or damaged. Under Form I-9 CNMI procedures, a receipt for an application for the replacement document is acceptable evidence of employment authorization for a period of up to 90 days. The employee must present the replacement document within that time period.

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 last page 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 to his or her employer a document or combination of documents, if applicable, from List A, which shows both identity and employment authorization; or one document from List B, which shows only identity, and one document from List C, which shows only employment authorization.

If a person is unable to present the required document(s) within three business days of the date work for pay begins, he or she must present an acceptable receipt within that time. 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 fewer than three business days.

The following pages show the most recent versions and representative images of some of the various acceptable documents on the list. These images can assist you in your review of the document presented to you. These pages are not, however, comprehensive. 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 USCIS does not expect you to be a document expert. You are expected to accept documents that reasonably appear to be genuine and to relate to the person presenting them. For a list of acceptable receipts for Form I-9, see Table 1 in Part Two.

LIST A: Documents That Establish Both Identity and Employment Authorization
All documents must be unexpired.

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
7. In the Commonwealth of the Northern Mariana Islands (CNMI) only, a foreign passport along with special documents issued by the CNMI.

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

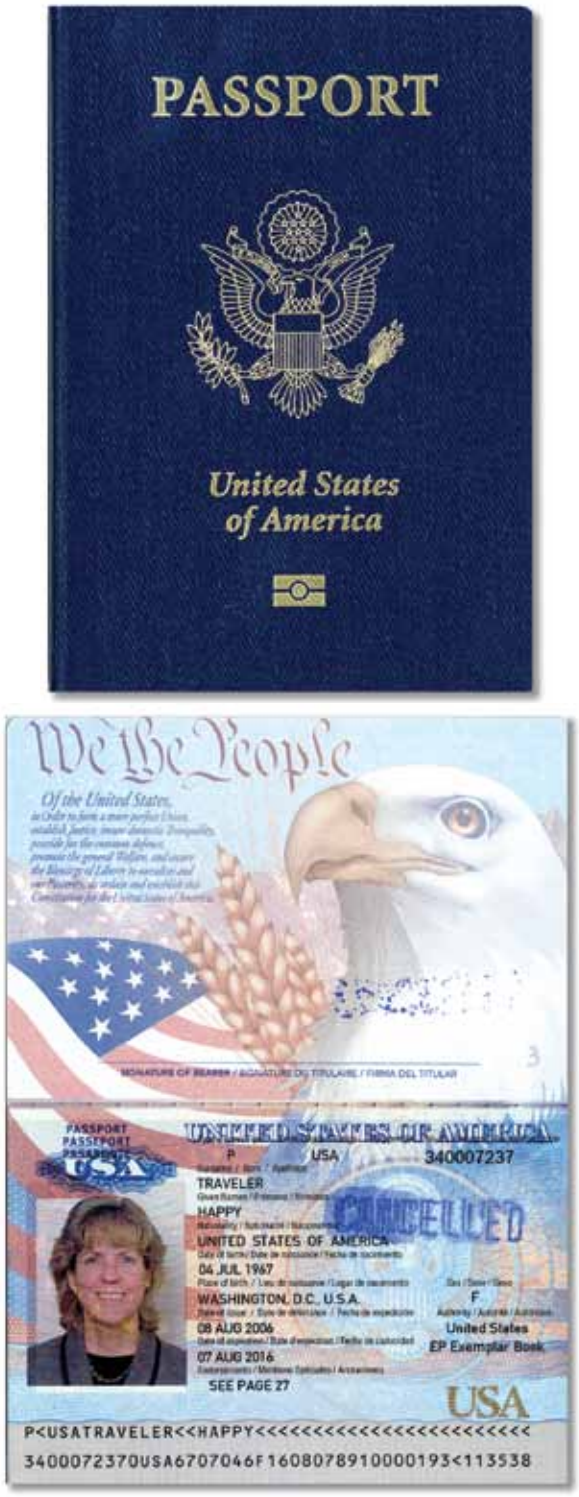
List A—Documents That Establish Both Identity and Employment Authorization

U.S. Passport

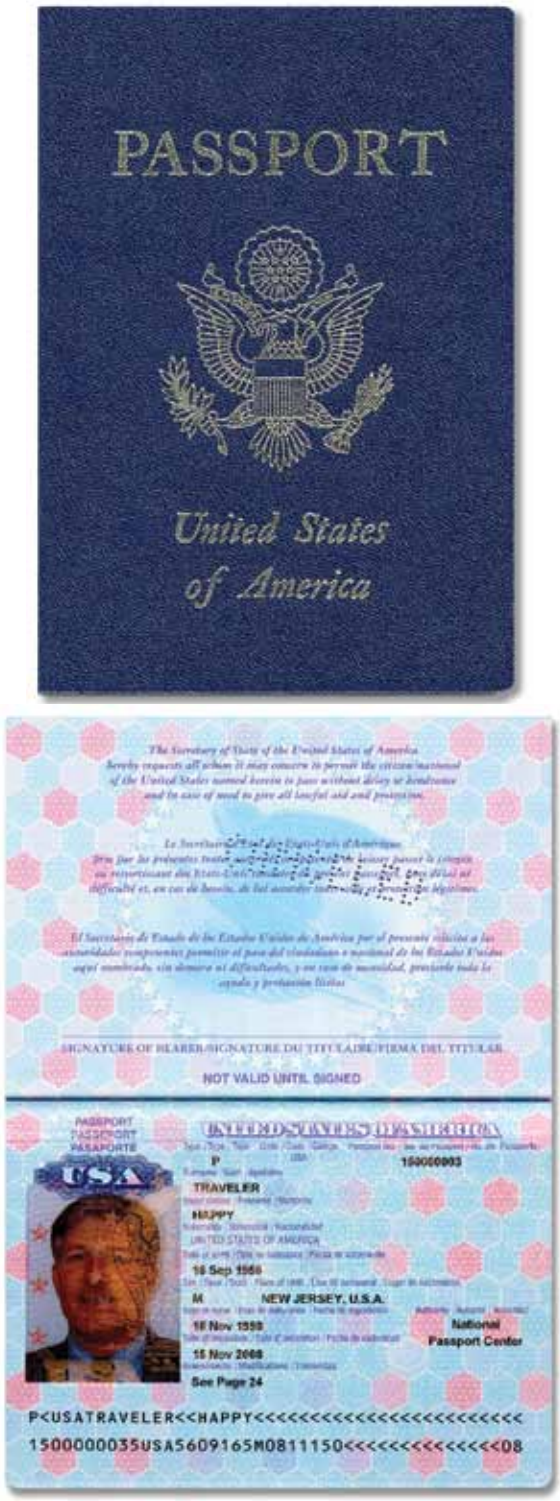
The U.S. Department of State issues the U.S. passport to U.S. citizens and noncitizen nationals. There are a small number of versions still in circulation that may differ from the main versions shown here.

The 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)

On May 11, 2010, USCIS began issuing the newly re-designed Permanent Resident Card, also known as the Green Card, which is now green in keeping with its long-standing nickname. The card is personalized with the bearer's photo, name, USCIS number, alien registration number, date of birth, and laser-engraved fingerprint, as well as the card expiration date.

Note that on the new card, shown below, the lawful permanent resident's alien registration number, commonly known as the A number, is found under the USCIS # heading. The A number is also located on the back of the card.

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

This most recent older version of 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 in color and contain the bearer's fingerprint and photograph.

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

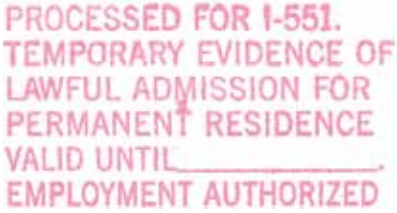
Foreign Passport with I-551 Stamp or MRIV

Unexpired Foreign Passport with I-551 Stamp

USCIS uses either an I-551 stamp or a temporary I-551 printed notation on a machine-readable immigrant visa (MRIV) to denote temporary evidence of lawful permanent residence. Sometimes, if no foreign passport is available, USCIS will place the I-551 stamp on a Form I-94 and affix a photograph of the bearer to the form. This document is considered a receipt.

Reverify the employee in Section 3 of Form I-9 when the stamp in the passport expires, or one year after the issuance date if the stamp does not include an expiration date. For temporary I-551 receipts, at the end of the receipt validity period, the individual must present the Permanent Resident Card (Form I-551) for Section 2 of Form I-9.

The MRIV demonstrates permanent resident status for one year from the date of admission found in the foreign passport that contains the MRIV.



I-551 Stamp

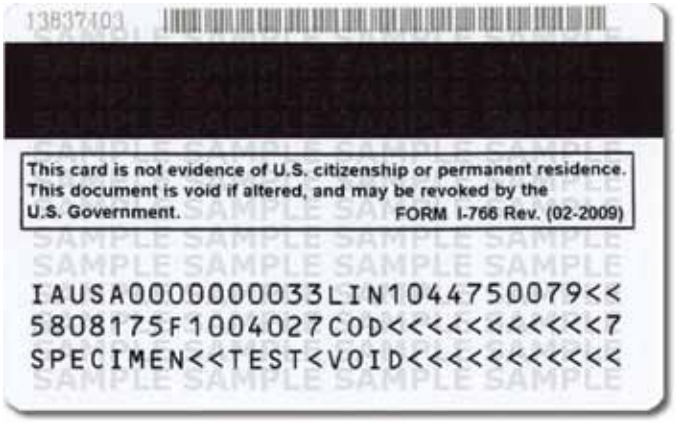
Temporary I-551 printed notation on a machine-readable immigrant visa (MRIV)

The temporary Form I-551 MRIV is evidence of permanent resident status for one year from the date of admission.

Employment Authorization Document (Form I-766)

USCIS issues the Employment Authorization Document (Form I-766) to individuals granted temporary employment authorization in the United States. The card contains the bearer's photograph, fingerprint, card number, Alien number, birth date, and signature, along with a holographic film and the DHS seal. The expiration date is located at the bottom of the card. These cards may also contain the legend "Valid for reentry to U.S." Note that in 2010, USCIS began issuing a new version of the Employment Authorization Document (Form I-766) with a machine-readable strip on the back of the card.

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



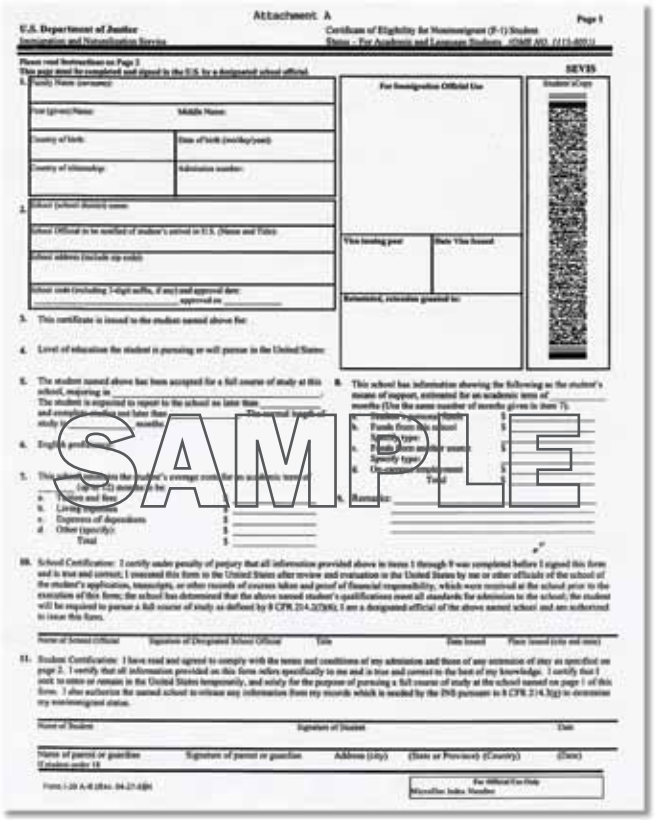
Newly redesigned back of EAD card

Previous back of EAD card

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

Form I-94 or Form I-94A for F-1 nonimmigrant students must be accompanied by a Form I-20, *Certificate of Eligibility for Nonimmigrant Students*, 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 OPT period.

(*See Form I-94 on next page.*)



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

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

Nonimmigrant exchange visitors (J-1) must have a Form I-94 or Form I-94A accompanied by an unexpired Form DS-2019, *Certificate of Eligibility for Exchange Visitor (J-1) Status*, 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 officer.

(*See Form I-94 on next page.*)

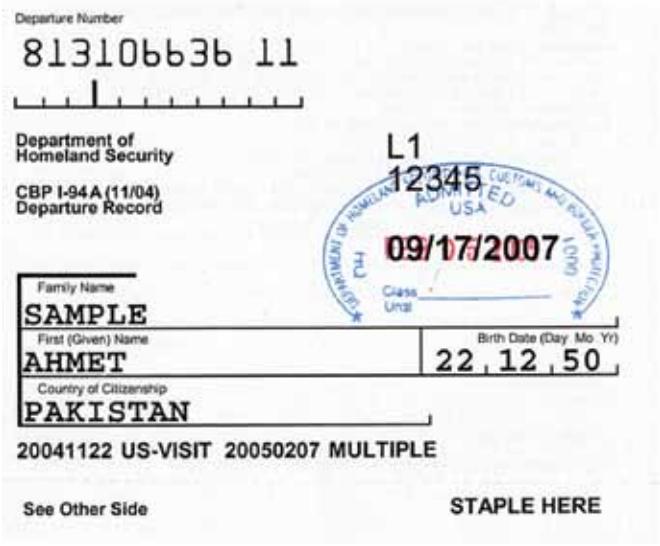
Form DS-2019 Accompanied by Form I-94 or Form I-94A

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

CBP and sometimes USCIS issue arrival-departure records to nonimmigrants. 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 Form I-94A also is presented, such as the foreign passport, Form DS-2019, or Form I-20.

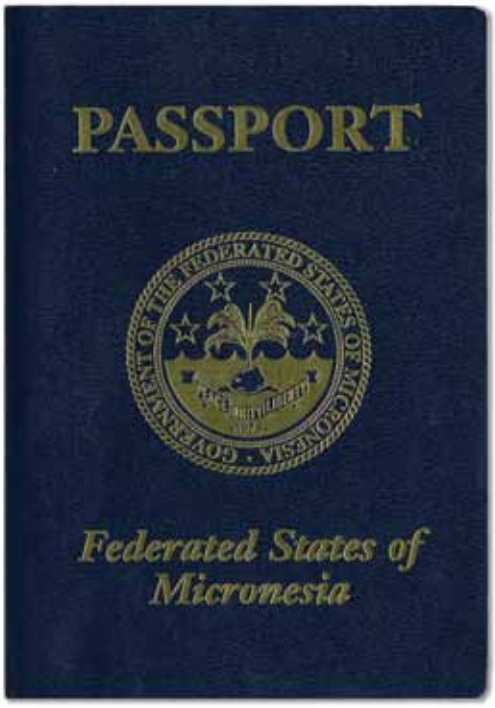
Form I-9 provides space for you to record the document number and expiration date for both the passport and Form I-94 or Form I-94A.

Form I-94 Arrival/Departure Record



Form I-94A Arrival/Departure Record

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



Passport from the Federated States of Micronesia

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 FSM or RMI passports accompanied by a Form I-94 or Form I-94A indicating nonimmigrant admission under the CFA, which are acceptable documents under List A. The exact notation on Form I-94 or Form I-94A may vary and is subject to change. As of early 2009, the notation on Form I-94 or Form I-94A typically states "CFA/FSM" for an FSM citizen and "CFA/MIS" for an RMI citizen.

Documents Acceptable in the Commonwealth of the Northern Mariana Islands (CNMI) only

CNMI Alien Entry Permit with red band

An Alien Entry Permit with red band issued to an alien by the CNMI Office of the Attorney General, Division of Immigration, before November 28, 2009, is valid evidence of identity and employment authorization in the CNMI (when accompanied by an unexpired foreign passport)until the expiration date of the permit or November 27, 2011, whichever occurs first.

Permanent Resident Card Issued by the CNMI

An unexpired Permanent Resident Card issued by the CNMI is evidence of identity and employment authorization (when accompanied by an unexpired foreign passport) in the CNMI until November 27, 2011.

Temporary Work Authorization Letter

A Temporary Work Authorization Letter issued by the CNMI Department of Labor before November 28, 2009 containing the name and photograph of the individual, if the period of employment authorization has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the Temporary Work Authorization Letter is valid evidence of identity and employment authorization (when accompanied by an unexpired foreign passport) in the CNMI until the expiration date of the document or November 27, 2011, whichever occurs first.

For more information on CNMI documents and employment authorization, see Part 7.

List B—Documents That Establish Identity Only

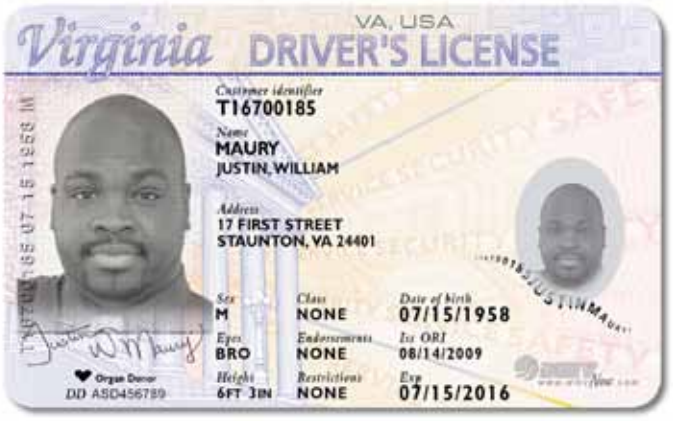
State-issued Driver's License

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, 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,eye color, and address.

Some states may place notations on their drivers' licenses that state the card does not confirm employment authorization. For Form I-9 purposes, these drivers' licenses, along with every other state's, establish the identity of an employee. When presenting any driver's license, the employee must also present a List C document that establishes employment authorization.

State-issued drivers' licenses vary from state to state.

The illustrations below do not necessarily reflect the actual size of the documents.

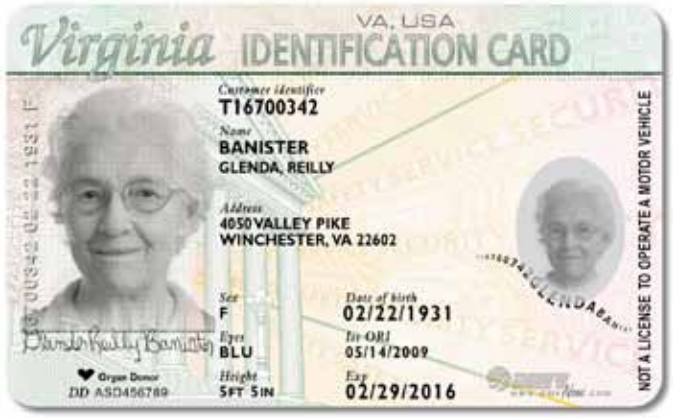


Driver's License from the Commonwealth of Virginia

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, American Samoa, 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,eye color, and address.

Some states may place notations on their ID cards that state the card does not confirm employment authorization. For Form I-9 purposes, these cards, along with every other state's, establish the identity of an employee. When presenting any state-issued ID card, the employee must also present a List C document that establishes employment authorization.



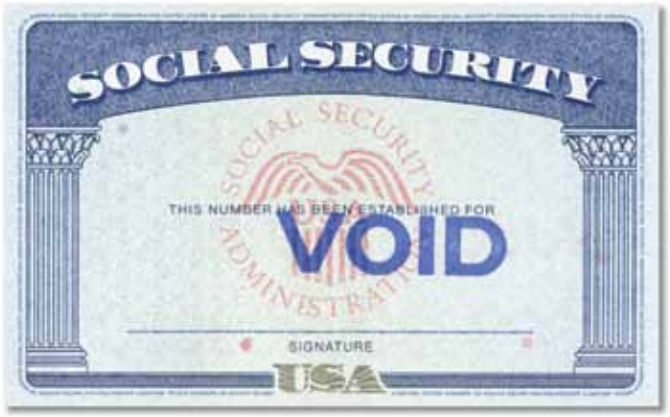
Identification card from the Commonwealth of Virginia

List C—Documents That Establish Employment Authorization Only

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

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.

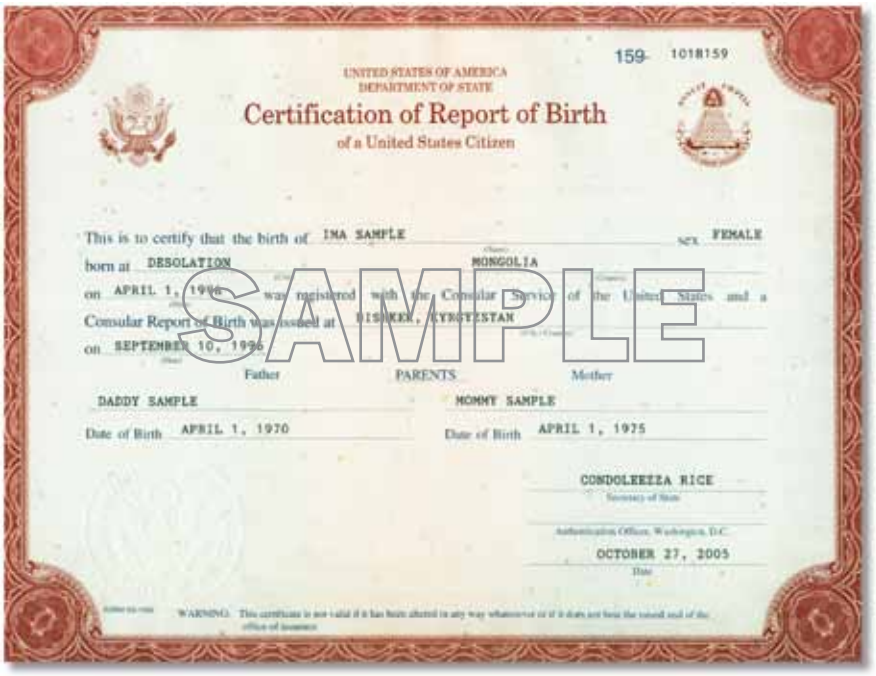


U.S. Social Security Card

Certifications of Birth 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)



UNITED STATES OF AMERICA
DEPARTMENT OF STATE

159 1018159

Certification of Report of Birth
of a United States Citizen

This is to certify that the birth of IMA 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

SAMPLE

Father PARENTS Mother

DADDY SAMPLE MOMMY SAMPLE
Date of Birth APRIL 1, 1970 Date of Birth APRIL 1, 1975

CONDOLEEZZA RICE
Secretary of State

Authentication Officer, 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 is acceptable. Versions will vary by state and year of birth.

Beginning October 31, 2010, only Puerto Rico birth certificates issued on or after July 1, 2010 are valid. Please check www.uscis.gov for guidance on the validity of Puerto Rico birth certificates for Form I-9 purposes.

CERTIFICATION OF VITAL RECORD

STATE OF RHODE ISLAND
AND
PROVIDENCE PLANTATIONS

VOID

COPY OF CERTIFICATE OF BIRTH
State of Rhode Island

John Doe
Male | Feb. 3, 2002
The Memorial Hospital | Pawtucket | Providence | RHODE ISLAND
John R. Doe
Providence | ---- | 17
Newport, RI | ---- | 17
RI | Feb. 5, 2002

SAMPLE

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

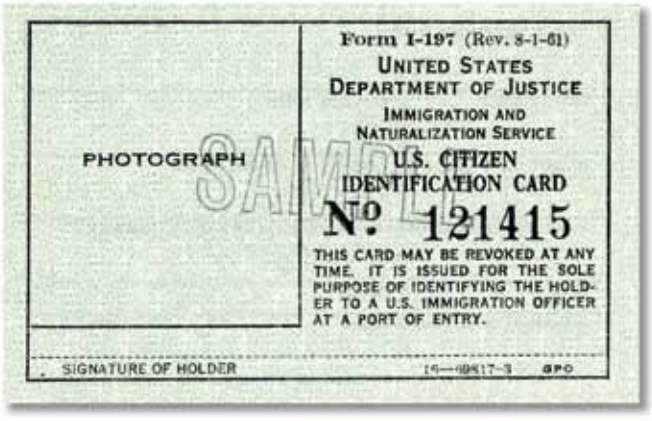
Signature of Registrar

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)

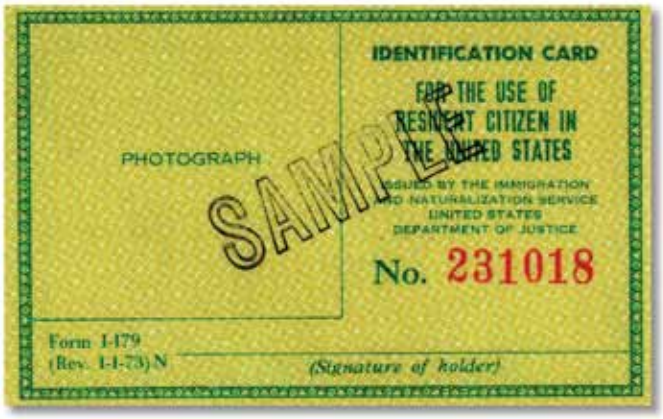
Form I-197 was issued by the former Immigration and Naturalization Service (INS) to naturalized U.S. citizens. Although this card is no longer issued, it is valid indefinitely.



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)

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 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