

INSIGHTS

USCIS Publishes New Employment Eligibility Verification Form I-9 for Use by Employers Effective Today, March 8, 2013

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Today, March 8, 2013, the U.S. Citizenship and Immigration Services (USCIS) published the new version of the Employment Eligibility Verification Form I-9 (Form I-9) to be used by employers effective immediately. Employers are required to verify on the Form I-9 the employment authorization and identity of each individual they hire for employment in the United States (whether the individual is U.S. citizen or a non-citizen).

Background

The USCIS initially proposed a revised version of the Form I-9 in March 2012 and invited public comment. In the first 60-day comment period, the USCIS received over 6,200 public comments. The comment period was extended twice with the final comment period expiring October 15, 2012. On March 8, 2013, the Office of Management and Budget approved the USCIS's revised version of the Form I-9.

The New Form I-9

The new Form I-9 is nine pages long – six pages of instructions, one page listing acceptable documents, and two pages of actual form to be completed by employees and the employer.

According to the USCIS, the newly revised Form I-9 makes several improvements intended to minimize errors in completing the form. The key revisions are listed as:

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

Use of the New Form I-9

Employers are instructed that they must begin using the new Form I-9 immediately. The correct form should have the revision date "(Rev. 03/08/13)N" on the bottom right-hand corner of the form. The new Form I-9 is available on the USCIS website at www.uscis.gov.

Importantly, the USCIS states in the notice regarding the new Form I-9 that it "recognizes that some employers may need additional time in order to make necessary updates to their business processes to allow for the use of the new Form I-9." For example, modifications to electronic systems may be necessary for employers utilizing electronic Forms I-9. As a result, the USCIS is providing employers a 60-day grace period to make necessary changes and have the new Form I-9 in place for use. After May 7, 2013, all prior versions of the Form I-9 can no longer be used by an employer. Further, employers who fail to implement use of the revised Form I-9 by May 7, 2013 will be subject to all applicable penalties under the law.