



December 2007

Client Advisory

NEW I-9 Employment Eligibility Verification Form

The USCIS has announced that, beginning on December 26, 2007, employers must begin using a new Form I-9 to establish employment eligibility, or face fines and penalties for failing to do so.

Originally announced by the USCIS on November 8, 2007, the new Form I-9 (attached to this e-alert) eliminates certain documents formerly acceptable for establishing an individual's legal right to work in the United States. Initially, the USCIS stated that employers could use either the old or new Form I-9 during a transition period. However, in the November 26, 2007 Federal Register, the USCIS announced that the transition period would last only 30 days, i.e., only until December 26, 2007.

The major revision to the new Form I-9 is the elimination of five documents from List A of "Acceptable Documents" that prove both identity and employment authorization. As of December 26, employers can no longer accept the following documents from newly-hired employees:

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

The new Form I-9 added to List A one new acceptable document

- Unexpired Employment Authorization Document that contains a photograph (I-766, I-688, I-688A, I-688B)

The instructions for completing the new Form I-9 state that the employee is not obligated to provide a social security number unless the employer participates in the E-verify system. The instructions further include information on electronic document signing and retention.

The Form I-9 is the critical document used by employers to verify employment eligibility in the U.S. The law requires all employers to complete and retain a Form I-9 for every employee hired.

The illegal employment of unauthorized workers in the U.S. has become a hot topic of our times, and future immigration reform. It is vital for employers to understand, and fully comply with, worker eligibility requirements, including proper use of the new Form I-9.

The new Form I-9 is attached to this e-alert. The "Handbook for Employers, Instructions for Completing the Form I-9" (M-274) is available online at www.uscis.gov. All employers are encouraged to review this information for accurate accounting of their employees and compliance in the event of an audit.

If you have any questions about the new Form I-9, or any other aspect of immigration and the workplace, please contact Gregory Palakow, Esq., Chair of Archer & Greiner's Immigration Practice Group, at 908-788-9700, or gpalakow@archerlaw.com.

DISCLAIMER: This client advisory is for general information purposes only. It does not constitute legal advice, and may not be used and relied upon as a substitute for legal advice regarding a specific legal issue or problem. Advice should be obtained from a qualified attorney licensed to practice in the jurisdiction where that advice is sought.

Please read instructions carefully before completing this form. The instructions must be available during completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification. To be completed and signed by employee at the time employment begins.

Print Name: Last	First	Middle Initial	Maiden Name
Address (Street Name and Number)		Apt. #	Date of Birth (month/day/year)
City	State	Zip Code	Social Security #

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):

- ☐ A citizen or national of the United States
☐ A lawful permanent resident (Alien #) A _____
☐ An alien authorized to work until _____
(Alien # or Admission #) _____

Employee's Signature	Date (month/day/year)
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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: _____		_____		_____
Issuing authority: _____		_____		_____
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) _____ and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)		Date (month/day/year)

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

A. New Name (if applicable)	B. Date of Rehire (month/day/year) (if applicable)
C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.	

Document Title: _____ Document #: _____ Expiration Date (if any): _____

I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative	Date (month/day/year)
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LISTS OF ACCEPTABLE DOCUMENTS

LIST A Documents that Establish Both Identity and Employment Eligibility	OR	AND
LIST A Documents that Establish Both Identity and Employment Eligibility	LIST B Documents that Establish Identity	LIST C Documents that Establish Employment Eligibility
1. U.S. Passport (unexpired or expired)	1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color and address	1. U.S. Social Security card issued by the Social Security Administration (<i>other than a card stating it is not valid for employment</i>)
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)	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	2. Certification of Birth Abroad issued by the Department of State (<i>Form FS-545 or Form DS-1350</i>)
3. An unexpired foreign passport with a temporary I-551 stamp	3. School ID card with a photograph	3. 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
4. An unexpired Employment Authorization Document that contains a photograph (Form I-766, I-688, I-688A, I-688B)	4. Voter's registration card	4. Native American tribal document
	5. U.S. Military card or draft record	5. U.S. Citizen ID Card (<i>Form I-197</i>)
	6. Military dependent's ID card	6. ID Card for use of Resident Citizen in the United States (<i>Form I-179</i>)
	7. U.S. Coast Guard Merchant Mariner Card	
5. An unexpired foreign passport with an unexpired Arrival-Departure Record, Form I-94, bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, if that status authorizes the alien to work for the employer	8. Native American tribal document	
	9. Driver's license issued by a Canadian government authority	7. Unexpired employment authorization document issued by DHS (<i>other than those listed under List A</i>)
	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	

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)