



USCIS Revises Form I-9, Employment Eligibility Verification

Insights

12.15.08

U.S. Citizenship and Immigration Services (USCIS) submitted to the *Federal Register* an interim final rule to revise Form I-9, Employment Eligibility Verification. The rule narrows the list of acceptable identity and employment authorization documents, requires employers to accept only unexpired documents, and makes several technical changes. The rule and the revised Form I-9 will be published in the Federal Register soon and will take effect 45 days after publication.

All employers are required to complete and retain a Form I-9 for each employee hired after November 6, 1986 to show that the employee is authorized to work in the United States. Employers will be required to use the revised Form I-9 for all new hires and to reverify any employee with expiring employment authorization beginning 45 days after USCIS' interim final rule is published in the *Federal Register*.

Three Documents Removed from List A

USCIS has removed three documents from List A that can no longer be used to establish both identity and employment authorization because these documents are now obsolete:

- Form I-688 Employment Authorization Document;
- Form I-688A Employment Authorization Document; and
- Form I-688B Employment Authorization Document.

Three Documents Added to List A

Three documents have been added to List A to establish both identity and employment authorization:

- A temporary I-551 printed notation on a machine-readable immigrant visa in addition to the foreign passport with a temporary I-551 stamp;
- A passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with a valid 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; and
- U.S. passport card.

Unexpired Documents Must Be Presented During the Verification Process

Expired documents are not acceptable documents for the revised Form I-9, including U.S. passports

and all List B documents used to establish identity.

Revisions to the Employee Attestation Section

In Section 1 of the revised Form I-9, "citizen of the United States" and "noncitizen national of the United States" will now be two separate categories. Noncitizen nationals are persons born in American Samoa, certain former citizens of the former Trust Territory of the Pacific Islands, and certain children of noncitizen nationals born abroad.

Availability of the Revised Form I-9

Beginning 45 days after publication in the Federal Register, the revised Form I-9 can be downloaded from our website or from www.uscis.gov. USCIS will also update *The Handbook for Employers, Instructions for Completing the Form I-9 (M-274)* to reflect the revisions to Form I-9.

[Here is the link to USCIS' Questions and Answers regarding the revised Form I-9.](#)

For more information about the revised Form I-9, please contact any member of our Global Immigration Practice Group.