



Tuesday, November 27, 2007

U.S. DEPARTMENT OF HOMELAND SECURITY PUBLISHES NOTICE OF AMENDED FORM I-9;

Beginning December 26, 2007, Use of Older Versions of the Form I-9 Will Be Subject to Potential Legal Liability

As reported in recent Tindall & Foster Email Bulletins, the U.S. Department of Homeland Security has revised the Form I-9 to bring the form and its instructions into conformity with statutory and regulatory requirements.

On November 26, 2007, the DHS published the new Form I-9 in the Federal Register. The Form I-9 as published on November 26th is now the only valid version of the form, although DHS will not impose penalty for use of the previous Form I-9 prior to December 26, 2007. Beginning December 26, 2007, use of the older version of Form I-9 will be subject to potential legal liability.

The substantive differences in the new [Form I-9](#) are found on page 2 of the form in the Lists of Acceptable Documents. The following documents have been **removed** from List A of the Lists of Acceptable Documents:

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

The following document has been **added** to List A of the Lists of Acceptable Documents:

1. Unexpired Employment Authorization Document (Form I-766)

The addition of the Unexpired Employment Authorization Document on Form I-766 updates the list of acceptable forms of Employment Authorization Documents (EAD Cards) now in circulation, to include: Form I-766, Form I-688, Form I-688A, Form I-688B.

Going forward, employers may only accept documents listed on the Lists of Acceptable Documents on page 2 of the new Form I-9 and, beginning December 26, 2007, may be subject to penalty for use of earlier versions of the form. Additionally, when re-verifying an employee's employment eligibility, employers should use the new, updated List of Acceptable Documents and the new Form I-9.

The publication of the new Form I-9 does not create a re-verification requirement with respect to existing employees. Re-verification of employment eligibility for existing employees should only occur when otherwise required by existing regulation.

The CIS has also published a new [Employer Handbook](#) to provide additional information as well as illustrations of acceptable documents. For more information concerning the new Form I-9 or an employer's obligation to verify or re-verify the employment eligibility of its employees, please contact your Tindall & Foster immigration attorney. Your Tindall & Foster immigration attorney will be able to provide you with the most up-to-date employment eligibility verification information available. Additionally, Tindall & Foster attorneys specializing in Form I-9 compliance and worksite enforcement will be pleased to discuss with you available options for pro-active audits and compliance procedures that can reduce your company's exposure to liability in the event of an audit or enforcement action by U.S. Immigration & Customs Enforcement (ICE).

Tindall & Foster, P.C. will continue to monitor changes impacting an employer's obligations with respect to employment eligibility verification and regulatory compliance. Future updates will be made available via the [Tindall & Foster web site](#) and in future Email Bulletins.