

THE NEW FORM I-9 EMPLOYMENT ELIGIBILITY VERIFICATION FORM MUST BE USED BEGINNING APRIL 3, 2009

On December 17, 2008, U.S. Citizenship & Immigration Services (CIS) published in the Federal Register an Interim Rule amending the Form I-9 Employment Eligibility Verification form and the list of documents which may be accepted by employers for purposes of verifying identity and employment authorization. Subsequently, the Government delayed the effective date until April 3, 2009. The new Form I-9 will go into effect April 3, 2009.

New Form I-9

Employers must use the new Form I-9 and abide by the new requirements effective **April 3, 2009**. Failure to do so may result in civil fines.

The new Form I-9 restricts the type of documents that can be presented for Form I-9 purposes. Employers should only use the new Form I-9 for employees hired on or after April 3, 2009, or for employees whose work authorization needs to be re-verified on or after April 3, 2009. Employers should not complete new Forms I-9 for existing employees unless re-verification of work authorization is required.

Significant Changes to Form I-9 Effective April 3, 2009

Section 1:

1. The new Form I-9 divides U.S. citizens and noncitizen nationals of the United States into two separate categories. (The definition of noncitizen national is provided in the instructions.)
2. Foreign nationals authorized to work temporarily must note their A number or Admission number first and the expiration date (month/day/year), if applicable, second.
3. The new Form I-9 allows foreign nationals whose work authorization does not expire to leave the expiration date blank (e.g., asylees, refugees, citizens of the Federated States of Micronesia, citizens of the Republic of the Marshall Islands).

List of Acceptable Documents:

4. Employers can no longer accept expired documents.
5. U.S. Passport Cards are now acceptable as a valid List A document.
6. Temporary Resident Card on Form I-688 and Employment Authorization Cards on Forms I-688A and I-688B are no longer acceptable as List A documents.
7. Arrival-Departure Record on Form I-94A has been added next to each reference to Form I-94 in List A.
8. Temporary I-551 printed notation on a machine-readable immigrant visa (MRIV) is now acceptable as a List A document. The MRIV is an immigrant visa stamp placed in the foreign national's passport by a U.S. Consulate.
9. Passports from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) are now acceptable 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 as List A documents.
10. Social Security Card is now referred to as Social Security Account Number Card.
11. Social Security Account Number Cards are no longer restricted to those issued by the Social Security Administration.

The [new Form I-9 is available](#) via the Foster Quan website. The [Handbook for Employers, M-274](#), has also been updated and is available via our website.

Should you have questions regarding documents presented for purposes of completing the Form I-9 Employment Eligibility Verification process, please contact your Foster Quan attorney. Your Foster Quan attorney can also provide you with valuable information related to Form I-9 audits using Foster Quan's I-9 Solver™ process to effectively identify and mitigate existing liability, and can provide compliance certification and policy advice that bring peace of mind to the administration of employer compliance programs.

As always, Foster Quan will continue to monitor legal developments which may impact on an employer's Form I-9 Employment Eligibility Verification obligations and will make new information available in future Immigration Updates© and on our firm's website at www.fosterquan.com.