



Thursday, November 08, 2007

U.S. CITIZENSHIP & IMMIGRATION SERVICES (CIS) PUBLISHES REVISED FORM I-9 FOR EMPLOYMENT ELIGIBILITY VERIFICATION;

CIS Encourages Employers to Begin Using the New Form I-9 and Page 2 Lists Immediately

The Immigration Reform & Control Act of 1986 (IRCA) introduced the requirement that employers verify the employment eligibility of employees hired after November 6, 1986. Subsequently, the Form I-9 Employment Eligibility Verification form was created specifically for this purpose.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) reduced the number and type of documents acceptable during the employment verification process. In 1997, the Immigration & Naturalization Service (INS) published in the Federal Register an interim final rule which conformed to IIRIRA's reduction in acceptable documents. Although the rule was published, INS and its successor agency CIS, never issued a corresponding Form I-9 with a conforming list of acceptable documents for purposes of enabling employers to better comply with these new requirements. This failure left two standards in existence: follow the most current regulations or follow the Form and its attached instructions, which have the force of regulation.

In an effort to bring the Form I-9 Lists of Acceptable Documents (page 2 of Form I-9) in line with IIRIRA and the 1997 regulation, ten years later, on November 7, 2007, CIS issued an [Update](#) announcing publication of a revised [Form I-9](#). 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 7, 2007, may only use the 2007 edition of Form I-9 (with approval date of June 5, 2007 at the bottom). Additionally, when re-verifying an employee's employment eligibility, employers should use the new, updated List of Acceptable Documents. Previous versions of Form I-9 are not acceptable for verifications or re-verifications completed on or after December 7, 2007.

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.