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Required Use of Revised 1-9 Forms: What Employers Must Be Told

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On November 7, 2007, the United States Citizenship and Immigration Services (USCIS) announced the availability of a revised I-9 Form, which employers must now begin to use. The I-9 Form is the standard document used by all U.S. employers to verify an individual's eligibility for employment through the review of specified documents.

The biggest change to the 1-9 Form is that it does away with outdated references to the Immigration and Naturalization Service (INS), which was replaced by the USCIS. Additionally, the new I-9 Form eliminated the following five documents that were previously featured on the form's "List A" of the List of Acceptable Documents:¹

- 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); and
- Unexpired Refugee Travel Document (Form I-571).

Now employers may accept only the following documents Under List A to establish *both* identity and employment eligibility:

- An unexpired or expired U.S. Passport;
- A permanent resident card or alien registration receipt card (Form I-551);
- An unexpired foreign passport with a temporary I-551 stamp;
- 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; and
- A Form I-766 (Unexpired Employment Authorization Document).

The only other noteworthy revision to the I-9 Form (which may now be retained electronically by

employers), is that employees are no longer obligated to provide their social security numbers in Section 1 of the I-9 Form unless their employer participates in the USCIS Electronic Employment Eligibility Verification Program (E-Verify).

Unquestionably, the issue of immigration control and reform is a high-profile topic that is the subject of heated national debate. Employers should be advised of the possibility of increased governmental audits related to I-9 compliance and the reality that inaccurately completed I-9 Forms (or failure to preserve such forms for the requisite period of time), could result in substantial fines and penalties.

NOTES

¹List A documents establish both identity and employment eligibility. In contrast, List B documents establish only identity and List C documents establish on employment eligibility.

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