

PUBLIC SUBMISSION

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0251

Comment Submitted by Jim O'Neil

Submitter Information

Name: Jim O'Neil

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Phone: 4042772592

General Comment

No doubt it is just me...but i cant find anything that actually speaks to the revision. A little clarity would be nice.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0252

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

Address: United States,

Email: kelly_mhs@yahoo.com

General Comment

I really like the new revised form because it clarified a lot of ambiguities that were still present in the last revision. One concern that I have been trying to get addressed almost since the 2013 version was released was the vagueness with the directions for the "Other Names Used" field, and the change to "Other Last Names Used" solved that. Being an activist for their community my principal concern is for transgender people, and the way the 2013 instructions were written could be interpreted to require employees who have had a sex change to "out" themselves to their employer by being required to provide a first name associated with their gender at birth. By clarifying that the field's intent is for former last names (e.g. maiden, previous married, etc.) that issue will be rendered moot.

Based on the size of the field, the way E-Verify is set up, and that the 2012-13 change appeared to be driven largely by women who objected to the term "maiden name" (based on the comments when this was open in 2012), I figured the field's intent was to apply to other last names the employee used - but since that was not clear, and given the concerns with transgender people about protecting their privacy regarding their gender transition due to rampant discrimination by employers and others against them, I felt that it needed to be addressed. The proposed form does that.

By the way, you have a typo in the Table of Changes that does not appear on the other new documents - "changed your 'first' name from Smith to Jones" should be "changed your 'last' name from Smith to Jones" (but that is a minor concern as the form and instructions themselves are correct).

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0253

Comment Submitted by Lorena Rivas

Submitter Information

Name: Lorena Rivas

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General Comment

Remove email or add to very last of employee section. Not everybody likes to provide their email or they do not have one. Make the boxes slight larger for entering DOB and SS#.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0254

Comment Submitted by Raymond Lutz

Submitter Information

Name: Raymond Lutz

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El Cajon, 92020

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General Comment

Thank you for making this form SHORTER and moving the instructions to a separate document. There are usually only a few fields that are actually entered. These should be included on a single page, rather than spreading it to two pages to make the number of pages that need to be printed to only ONE most of the time.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0255

Comment Submitted by Cathy Underwood

Submitter Information

Name: Cathy Underwood

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General Comment

Is there anyway you can add a notary public field so that when an employee is hired remotely that the I-9 can be completed by a notary public. or is there another solution. We hire in 32 states but only have 1 location. Usually only 1 or 2 people in many of the states, so it is not prudent to get an office. Is there a solution that I am unaware of. We just started using I-9 Advantage and it is still confusing to new candidates. Thank you

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0256

Comment Submitted by Michel Desormeaux

Submitter Information

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General Comment

Hi I don t understand y with all the paper work I sent the corporation trying to hire me doing it and still nothing I don t have criminal record not even a speeding infraction good bank account and your neighbor from Canada I live here at lease 6 months of the year for the last 40 years .You need to do some home work, I understand the way things are today you have to be careful about it do I need to beach my self in Miami ? thanks for your time I appreciate . sincerely yours .Michel Desormeaux

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Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0257

Comment Submitted by Anastacia Glinsmann

Submitter Information

Name: Anastacia Glinsmann

General Comment

I feel like the form should be simplified back to how it was prior to 06-30-2008. A one page document makes more sense and wastes less paper.

With the increase in E-Verify, shouldn't there be a small section that asks if you did an E-Verify case and then have you write the confirmation number? This will alleviate a lot of the extra write-ins on the top of the page/in margins.

Also, the Other Names Used box is very confusing people who use nicknames. If you didn't want to use Maiden Name, you could use Birth Name (If different from Family Name).

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0258

Comment Submitted by Naomi Franceschini

Submitter Information

Name: Naomi Franceschini

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General Comment

Please make the form back to one single page, with the list of acceptable documents easy to indicate to new hires what is needed.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0259

Comment Submitted by C. M.

Submitter Information

Name: C M

General Comment

Clarification of 'Other names used' is a positive: the previous version was just 'maiden name', simple. Current Form I-9 people are entering nicknames. Entering the email address and telephone number aren't necessary. When a noncitizen receives an email from USCIS that they have received a DHS/TNC or a SSA/TNC it frightens and confuses them. Besides, there is no entry field for the phone number entering the information in the system.

Separating the last name, first name and middle initial at the top of the second page of the Form I-9 is also a positive: it draws more attention that the field needs to be entered. The employee has already attested to their citizenship or immigration status on the first page of the Form I-9, why have them repeat it?

If the Form N570 is an acceptable List C documents it should be reflected on the Lists of Acceptable Documents as should any acceptable document.

Expanding the Instructions and Form I-9 from 9 pages (which is already a lot) to 18 is just too much. Employees will not take the time to read it. We need minimal and simplistic.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0260

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

General Comment

I have a question in the Preparer and/or Translator Certification section. The instructions read "To be completed and signed if Section 1 is prepared by a person other than the employee", but then you have the box "No Preparer or Translator". That box is confusing. If I completed the form myself, then read the instructions, I would go no further since I don't need to complete the section due to the fact that I completed it on my own. If checking one of the boxes is a requirement for every form, the instructions should be worded to indicate that all must check one of the boxes.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0261

Comment Submitted by Gail Simmons

Submitter Information

Name: Gail Simmons

General Comment

Please correct the date to respond from January 25, 2015 to January 25, 2016.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0262

Comment Submitted by Michael Newton

Submitter Information

Name: Michael Newton

General Comment

Any revision to this electronic system is only as good as the SAVE query which at present does not show AKA or current name. For the most part when a query is complete, there is an error on name as the person's entry name is the only offered name from the data query. Unlike SSA which shows current name, USCIS does not show current name

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0263

Comment Submitted by Charles Carmody

Submitter Information

Name: Charles Carmody

General Comment

Please consider a fingerprint box on the form. The fingerprint (when the form is submitted) can be compared to registered workers
No fingerprint in data base, the person standing in front of you is not legally registered to work. If in the event all things being equal the individual can work legally, the fingerprint will be added to a records/comparison database for all concerned employers and authorities authorized and required to have access to that database. Years ago I had the pleasure to meet many Marielitos traveling throughout the U.S. One thing they all had in common and agreed upon, is that from Florida to Seattle, their information route of travel required they change picture identification three (3) times before reaching Seattle. This was their way of "buying" time even though, and for the most part, many were not criminals, they simply did not know what to do and how to do it. Many do indeed look alike, and when switching I.D.s and with a little work, anyone can look alike. It is with that in mind, if we do not already have one, I would like to see an electronic form, as a prospective agricultural employer, that I can take a photo, and at least one finger print to upload with that form. The equipment to do so can be written off at the end of the year, all legal employers will have created a working database with 24/7 access; all illegal employers will be automatically "flagged" by the system via their I.R.S. tax data when no forms have been submitted for an agreed foreign worker manufacturing, agricultural, and/or institution requiring seasonal workers, and/or returning temporary/permanent workers.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0264

Comment Submitted by Diane Nahmensen

Submitter Information

Name: Diane Nahmensen

General Comment

The new I-9 form looks good but was wondering if we can change the wording for Last Name (Family Name) under Certification. I believe it's confusing to a lot of people....should they put their name or the employees? If we could change the wording to Employer/Authorized Rep last name, that may help.

Thanks!!

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0265

Comment Submitted by Danielle Cadena

Submitter Information

Name: Danielle Cadena

General Comment

The new changes to the Form I-9 I think will be very helpful for the preparer and employee when completing the form.

One thing I think would be beneficial is for the address section in section 1 to have a notation about not providing a PO Box.

After (street number and name) maybe you could add (NO PO Box). For those not completing the form electronically.

Also, if the actual form is going to be 3 pages, on the 3rd page at the top, you could add "For reverifications and rehires only".

Other than that the changes look very good. Thanks for allowing input on these proposed changes.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0266

Comment Submitted by Carmel Gillis

Submitter Information

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Phone: 4154070472

General Comment

There are too many companies who require this information when applying for jobs. Once they get all this information, they never follow up or responds. I believe it is a easy why to commit fraud. There should be a way where the Federal Government should be involved with every organisation that requires this information.

It is an open avenue for fraud. The jobseeker is the desperate one, however too many applications with zero feed back accept easy access to personal information and signed documents.

Once a staffing service requires any personal information, that candidate should be considered their employer until a written document releases all confidential information.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0267

Comment Submitted by Benjamin Mahnkey

Submitter Information

Name: Benjamin Mahnkey

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Phone: 2062669265

General Comment

Please add a second document box below List C in Section 2. There is currently no location to enter I-20 or DS-2019 information for employees on F-1 or J-1 visas who chose to present an I-94 with I-20/DS-2019 as a List C document.

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Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0268

Comment Submitted by Jean Poublee

Submitter Information

Name: jean poublee

General Comment

nj has problems that this immigration agency is not addressing. we have legislators putting up a bill to ret licenses for illegal immigrants so they can drive to their jobs. now how as illegalimmigarnts can they have jobs to drive to if they dont have the proper paperwork to fill out an i-9. obviously something is wrotten in nj and you are doing nothing to taek care of this.no illegal immigrants should have to drive to a job because the job should be demanding an i9 which requires american documentation to fill out, not mexican documents or honduran documents. so obviously if this nj legislators has a hearing in gtrenton about giving driving licenses to their jobs in new jersey and crowding our highways with illegal immigrant driving to jobs, then they are taking jobs they should not have.

where arre uyou to visit nj aemployers to check oiut the i09s so that these illegal immigrant discover that they dont have jobs they need to drive to. why arent they picked up and deported for illegalli taking a job from an american. they have no right ot have jobs in nj if they cant fill out an i9.

obviously gther is real govtcorruption goin on in uscis if this situation is as bad as this nj legislator syas it is so that driving license have to be given to illegal immigarnts to b=get to jobs they shouldnt have in the first plce. lets eliminate the jobs they should not have. lets investigate i9s in new jersey. why have this program and tax us to the hilt if you arent doing your ljob of law enforcement. you are not doing your job of law enforcement. its gidsgustying. assemblywoman quijano of the new jersey legislature is so concerned about illegal immigrants haveing driving license to get to jobs they shouldnt have ijn the firt place. wher eis gthe federal govt to enforcce laws. that is what is wrong with america., the laws are broken by all these sneaking foreigners.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0269

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

Address: United States,

Email: kelly_mhs@yahoo.com

General Comment

Your idea of having the field say "Birth Name" can be problematic too - what about if the employee legally changed their first name (when the purpose of the field is for a maiden/other last name)? Even worse, that wording poses the same issues for transgender people as "Other Names Used" that I described in one of my other comments. If they take your idea, it should say "Birth Last Name" rather than just "Birth Name" (actually their proposed change to "Other Last Names Used" solves your nickname concerns, so I would say keep the proposed change there as-is).

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0270

Comment Submitted by John H.

Submitter Information

Name: John H

General Comment

Like that the ambiguity is being eliminated and implementation of the use of drop down menus. Would like to see a version that accepts electronic signatures.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0271

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

Address: United States,

Email: kelly_mhs@yahoo.com

General Comment

I meant for the comment about Anastacia Glinsmann's "Birth Name" suggestion to be in response to her comment - I am a relative newbie to using regulations.gov and thought it would be posted as a comment to hers (when I selected "Comment Now" on her comment's page and then left the "Comment directly" box unchecked) rather than appearing as a new comment. Nonetheless, I think USCIS's proposal of "Other Last Names Used" for the title of the field (or the "Birth Last Name" modification of Ms. Glinsmann's idea) are great ideas as they solve any ambiguity concerns about what kinds of "other names" should be listed, do not have the semantic issues to some women that "maiden name" does, and resolves the concerns of the transgender community about having a field which could be construed to require them to "out" themselves by forcing them to provide their first name from before they legally changed it. As has been said "Other Names Used" can be interpreted in many different ways, "Birth Name" is fine when only considering marriage/divorce related name changes but can be ambiguous and problematic when a change to the employee's first name (or any name change that amended their birth certificate) took place if the field's intent is to record alternate last names, and both field titles have the problems for transgender people that I described.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0272

Comment Submitted by Mark Schek

Submitter Information

Name: Mark Schek

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5322 First Street NW
Washington, 20011

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Phone: 2028824825

General Comment

Thank you for the opportunity to comment,

The following ad from Craigslist explains enough why there is not a reason to change enforcement rules when current regulations and requirements are not adhered to, as in the case below.

Clearly, if employers were cognizant of i 9 enforcement, they would not advertise this kind of employment ad.

We have plenty of culinary schools in the U S and students pay upwards to 50 thousand to attend. Hiring requirements precludes hiring anyone from "Northern Europe"

Sincerely

Mark Schek certified working Chef, ACF.

CL

washington, DC >
maryland >
jobs >
food/beverage/hospitality

post
[account]

x prohibited[?]

Posted: about 2 hours ago

[prev](#) [next](#)

[print](#)

Farm-to-Table Chef's Assistant-Skilled w/Pastry (Bethesda)

compensation: Competitive Base Plus Incentives; Career Development.

employment type: part-time

We're the "real thing," a heritage working farm recognized for high quality, elegant farm-to-table products. We're looking for a passionate, talented, organized culinary professional to help prepare our farmhouse foods.

Working with a classically-trained Chef from Northern Europe, the Chef's Assistant will perform a variety of tasks to prepare a select range of superb seasonal, provincial savory confections.

This job starts part time. But with excellent performance, the candidate can opt to increase hours, and this could become a career opportunity. The Chef's Assistant will receive instruction in specialized food preparation and will perform related tasks as required. Location convenient to the Red Line.

Job Essentials:

- Cooking experience and knife skills, good with pastry and special talent for all things dough
- Understanding of and passion for preparing fine food using exceptional ingredients
- Possesses work ethic with a can-do attitude, likes organizing, builds team spirit.

Qualifications:

- High school education with some culinary training, French technique preferred
- Knowledge of sanitation and food handling regulations
- Ability to maintain quality standards in food preparation and presentation.

Principals only. Recruiters, please don't contact this job poster.
do NOT contact us with unsolicited services or offers

post id: 5337405646

posted: about 2 hours ago

updated: about 2 hours ago

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0273

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

General Comment

How is the address information provided by the newly hired employee to be used to verify employment eligibility? Is the address information mandatory or may be be left blank by the employee?

USCIS and SSA databases do not use address information to determine if someone is eligible to be employed in the US. An employee is is putting themselves at additional risk of exposing their personal identifiable information by including such information on their Form I9.

PUBLIC SUBMISSION

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0274

Comment Submitted by Michael Clay

Submitter Information

Name: Michael Clay

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13077 Veveras Drive

Jacksonville, 32258

Email: michael.d.clay@ice.dhs.gov

Phone: 9042884512

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General Comment

Revert the form to two pages. Incorporate electronic signatures into the form. Autofill the employee's name on page 2 (and page 3, if it remains) from the employee's name on page 1.

PUBLIC SUBMISSION

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0275

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

Government Agency Type: Federal

Government Agency: USCIS

General Comment

The current instructions for completing Section 3 of the Form I-9 are confusing. The instructions are not clear on how the section is to be used and what information is to be included. The information contained in the instructions are not contained in an easy to follow format. Please see the attached which contains recommended changes for the instructions.

Attachments

Form I-9 Instructions

Employers or their authorized representatives should complete Section 3 when:

- Rehiring an employee within 3 years of the date the Form I-9 was originally completed
- Reverification of an work authorized employee whose original List A or C document presented for Section 2 is about to or has expired (e.g., I-766, Employment Authorization Document)
 - If both Section 1 and Section 2 indicate expiration dates triggering the reverification requirement, the employer should reverify by the earlier date.
 - For reverification, an employee must present unexpired documentation from either List A or List C showing he or she is still authorized to work. Employers CANNOT require the employee to present a particular document from List A or List C. The employee may choose which document to present.

Note that for E-Verify reverification purposes, employers have the option of completing Section 3 of a new Form I-9. However, if there is a more current version of the Form I-9 at the time of reverification, you must complete Section 3 of the most current version of the form. You must attach the new Form I-9 to the employee's original Form I-9

Employers should not use E-Verify to reverify the following:

- U.S. citizens **and noncitizen nationals**
- Lawful permanent residents who presented a Permanent Resident Card (Form I-551) for Section
- List B documents

To complete Section 3, employers complete the following:

- Complete Block A if an employee's name has changed after completing the original Form I-9.
- Complete Block B with the date of rehire if you rehire an employee within three years of the date this form was originally completed, and the employee is still authorized to be employed on the same basis as previously indicated on this form.
- Complete Block C if:
 - The employment authorization or employment authorization document of a current employee is about to expire and requires reverification, or
 - You rehire an employee within 3 years of the date this form was originally completed and his or her employment authorization or employment authorization document has expired.
- Complete Block **D** "Signature of Employer or Authorized Representative".

Comment [DD1]: Add a block identifier for the signature block

To complete Block C:

- Examine either a List A or a List C document the employee presents that reflects that the employee is currently authorized to work in the United States;
- Record the document title, document number, and expiration date (if any).

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0276

Comment Submitted by Anonymous

Submitter Information

Name: anonymous anonymous

Government Agency Type: Federal

Government Agency: USCIS

General Comment

The current instructions for completing the Form I-9 do not instruct the employer to verify the citizenship attestation being made by the employee against the documents being provided. As a result, employees frequently attest to being a US Citizen or LPR when presenting a I-766. As a result, employee verified in E-Verify receive a TNC due to invalid citizenship attestations.

Include instructions to the employer how they can verify the citizenship attestation using the documents provided by the employee.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0277

Comment Submitted by Jen Young

Submitter Information

Name: Jen Young

General Comment

Further guidance is needed regarding whether a social security number is required in section one of the form I-9 and if it poses a compliance problem if the employee chooses to not have it listed on the form. In addition, the use of electronic signatures on the form would be an absolute improvement.

PUBLIC SUBMISSION

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0278

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

Address: United States,

Email: kelly_mhs@yahoo.com

General Comment

In response to Jen Young's question about a required vs. optional Social Security Number: The instructions state it is optional when the employer does not use E-Verify; however when the employer uses E-Verify it is of a practical necessity to have. (I don't know if there would be any penalties against the employer or not unless they are required by state/local law to E-Verify all of their employees - and those penalties would not be from ICE anyway, but as I said you would not be able to properly do an E-Verify without an employee SSN.)

PUBLIC SUBMISSION

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0279

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

Address: United States,

Email: kelly_mhs@yahoo.com

General Comment

In response to the Anonymous comment about the purpose of asking for the employee's address: It's so ICE can locate an employee if necessary, as they do not have access to the employee's other files. (They have asked for the physical address of the employee on the form for as long as I can remember.)

PUBLIC SUBMISSION

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0280

Comment Submitted by Janice Bianco

Submitter Information

Name: Janice Bianco

Address:

Cleveland Clinic

9

Cleveland, OH, 44195

Email: biancoj@ccf.org

General Comment

I like the drop down boxes with options to select documents - this will save time in having to type everything in. The proposed form has a new drop down for employee citizenship but this is currently a list of numbers. Will this be changed, so we know what the numbers relate to?

PUBLIC SUBMISSION

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0281

Comment Submitted by Rhonda Fox

Submitter Information

Name: Rhonda Fox

Address:

Leidos, Inc.

301 Laboratory Road

Knoxville, TN, 37830

Email: foxr@leidos.com

Phone: 865-425-5627

Fax: 865-425-5665

General Comment

1. The requirement to double tab may be problematic for some people. If one is not certain that the tab must be clicked twice to advance to the next field, they may become frustrated to complete the form. I understand that the first click lands on the "question" for more details, but that is useless if employees advance manually.
2. While the SS# is optional, unless one hovers over the question mark, they will not be aware that for those employers who participate in E-Verify - this field would become mandatory. What would be helpful is that when the employee goes to submit the form a warning comes up that if an employer participates in E-verify the SS# is a required field.
3. If an employee selects #4, an alien authorized to work, a drop down box appears in subparagraph 1 (Alien Registration Number/USCIS Number), however there are no choices in that drop down box and it becomes free form. Perhaps get rid of it?
4. I believe forcing someone to click "No Preparer or Translator" when it is not necessary will create frustration. I would suggest that if someone completes any part of that section, only then force a choice selection.
5. I highly recommend getting rid of the warning about the employee's email address and telephone number when the form is checked for accuracy if it is an option to provide. What is "significantly more important" is a warning box about the social security number/E-Verify relationship (see no. 2 above).
6. Section 2 - Column B -- In the drop down box for the Driver's license issued by state/territory, please make the selections alphabetical. For instance, Virginia is before Vermont, Alaska is before Alabama. If the states were submitted alphabetically by abbreviations, then this would be correct,

however, the states are spelled out. Should be switched.

7. List B should have a warning box that advises the certifier that only documents with government-issued photos can be accepted for employers enrolled in E-Verify (particularly if it is being completed by an agent for the employer). We have encountered resistance from some employees because there is no mention of this on the form unless we go to the website and pull up those instructions in the manual. The employee is forced to have this section completed again if they did not choose a photo ID for column B.

Other than that, I think the form looks clean. Thanks for the opportunity to review and comment.

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0282

Comment Submitted by Janice Bianco

Submitter Information

Name: Janice Bianco

General Comment

The document type is not populating on page 2. For example, I selected driver's license and social security card and no text populated. The form let me proceed with the rest of the section, but when I clicked the 'check form' button, it highlighted those 2 boxes and said I must choose a document type. I'm assuming this is either intentional for test purposes or an oversight that will be fixed before launching the final form.

The check before finishing is a wonderful addition. I send Page 1 to my employees to complete and have them print it and sign it in front of me on their first day. Having the check button will help eliminate problems with missing information or incorrect dates (a lot of people put their birth date as the date of signature). It might help to put Today's date or date of signature in that box instead of just date.

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0283

Comment Submitted by Sandi Rostan

Submitter Information

Name: Sandi Rostan

Address: United States,

Email: srostan@uark.edu

Phone: 5012622711

Fax: 5012629612

General Comment

I love that the form is now interactive and that it populates the N/A fields when certain boxes are answered.

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As of: December 04, 2015
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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0284

Comment Submitted by Vanessa Lee

Submitter Information

Name: Vanessa Lee

General Comment

After the employee signs add the word "signed" to date. I have so many that put their date of birth there for some reason.

Signature of Employee: Date Signed:

PUBLIC SUBMISSION

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0285

Comment Submitted by Stephanie Bailey

Submitter Information

Name: Stephanie Bailey

General Comment

The question I get the most often when new employees (or parents of a student employee) are completing the form is questions about how to complete it if they are a minor. Any easy way of identifying that on Section 1 and how to sign the form in those situations would be great. Maybe a box by the signature line. Thanks!

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0286

Comment Submitted by None None

Submitter Information

Name: None None

General Comment

Please make a SPANISH version that is available for use outside of Puerto Rico. I used to be at a cattle operation where MANY of the hired were of Spanish speaking influence. It seems very silly to have a form only for use in Puerto Rico Spanish speakers.

PUBLIC SUBMISSION

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0287

Comment Submitted by Melody Pullara

Submitter Information

Name: Melody Pullara

General Comment

For the Other Names Used, the changes should NOT limit it to just other last names. We have an employee with four names, so we used the Other Names Used for the fourth since we weren't sure which one would be in the database.

PUBLIC SUBMISSION

As of: December 04, 2015
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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0288

Comment Submitted by Mark Daly

Submitter Information

Name: Mark Daly

General Comment

Not broke, don't "fix" it.

-Looks a lot like people haven't anything useful to do.

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0289

Comment Submitted by Dianne Richards

Submitter Information

Name: Dianne Richards

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New York, NY, 10121

Email: dianne_richards@ibi.com

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Fax: 2129670458

General Comment

Spell check: should read U.S. Citizen ID Card (Form I-97)

- page 11 of 15, Full name of List C Document (column 1) 6th line - currently reads: U.S. Citizen ID Card (From I-97)

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0290

Comment Submitted by gaston santos

Submitter Information

Name: gaston santos

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Leesburg, VA, 20176

Email: gastonmsantos@gmail.com

Phone: 5712951347

General Comment

i try to open this link but don't let me

Form I-9 in Spanish (May be filled out by employers and employees in Puerto Rico ONLY) (314 KB PDF)

PUBLIC SUBMISSION

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0291

Comment Submitted by Joseph LaFleur

Submitter Information

Name: Joseph LaFleur

Address:

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Suite 420-South
Dallas, TX, 75247

Email: jody@hr7exec.com

Submitter's Representative: Joseph LaFleur

Organization: HR7 Executive Services

General Comment

Please include a place to include a notary seal for employees remotely hired.

Please remove the email address field. Many applicants for labor jobs do not have email addresses and asking for email seems unnecessary to the document's purpose to verify eligibility for employment. These questions seem discriminatory because one does not need a phone or email to be eligible for employment.

A social security card should be a required document and not an optional document. Requiring a Social Security card will have a significant impact on reducing social security number errors.

Please add electronic signatures.

Please clarify rules regarding electronic I-9 forms, particularly using and storing electronic I-9 forms.

It would be useful if the employers could import an electronic I-9 into E-Verify. The work to collect the form data and then enter the information again in E-Verify is redundant. Alternatively, allow employers to enter the information into E-Verify and then print a signature ready I-9. If you simplify the process you will achieve greater compliance.

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0292

Comment Submitted by Debra Roberts

Submitter Information

Name: Debra Roberts

General Comment

As we have 18 centers, the I9s are not always sent to me at the headquarters within the 3 days entering time. I think it would be a lot less stressful on everyone if we could have a larger window in which to report these into E-verify. Also, it causes much back and forth between me in HR and our centers to get these forms to be completed correctly. Give a little leeway as far as not having to have error-free completion of the I9s. Thank you and Happy Holidays!

PUBLIC SUBMISSION

As of: December 04, 2015
Received: December 01, 2015
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Posted: December 01, 2015
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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0293

Comment Submitted by Nicole Cordes

Submitter Information

Name: Nicole Cordes

General Comment

Our company thinks these will be great changes! The form can be difficult in its current state for some employees to complete and anything we can do to help them finish the form accurately will be beneficial.

We do ours electronically through an onboarding system, so the enhancements for the electronic versions would be of the most help for us.

Thank you!

PUBLIC SUBMISSION

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Status: Posted
Posted: December 01, 2015
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Submission Type: Web

Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0294

Comment Submitted by Evie Barbero

Submitter Information

Name: Evie Barbero

General Comment

Why bother filling I-9 out? Illegals still get to work in the US or they wouldn't be here; they usually have 1 wife in south america and 1 with 6 kids in US that I am forced to support through welfare programs.

PUBLIC SUBMISSION

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Posted: December 01, 2015
Tracking No. 1jz-8mkf-t0fg
Comments Due: January 25, 2016
Submission Type: Web

Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0295

Comment Submitted by Anonymous Anonymous

Submitter Information

Name: Anonymous Anonymous

General Comment

Add a box to enter the Case Number that is given, in the end, after submitting the information to E-Verify.

PUBLIC SUBMISSION

As of: December 04, 2015
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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0296

Comment Submitted by Karen Dalebout

Submitter Information

Name: Karen Dalebout

General Comment

Every revision to a required form is a new opportunity to trap an employer in a violation for "using the wrong form."

Please finalize the form and stop fooling with it.

PUBLIC SUBMISSION

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0297

Comment Submitted by K. Dugan

Submitter Information

Name: K Dugan

Address:

OH,

General Comment

If you have competent personnel completing the old/new I-9 why would you worry about being dinged for an error?

These forms are simple and easy to complete and I've been completing them for many years. If an employee can't understand how to complete an I-9 perhaps we aren't hiring the person we need. Less pages to print, to read, to complete seems like a win-win for all concerned.

PUBLIC SUBMISSION

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0298

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

Address: United States,

Email: kelly_mhs@yahoo.com

General Comment

In response to Melody Pullara: If they look at your idea then they should say that employees can OPTIONALLY provide other kinds of alternate names there. As I've said in multiple comments on here, USCIS should not make it mandatory that an employee provide an alternate name that may result in discrimination such as by requiring (or appearing to require) that for example a transgender employee provide their former first name from before changing gender (when that name is not needed to verify that employee).

Another way you could handle unusual name situations like those Ms. Pullara mentioned is that the new forms have an "Additional Information" section where the employee could attest to those possible discrepancies.

PUBLIC SUBMISSION

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Submission Type: Web

Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0299

Comment Submitted by Andrea B.

Submitter Information

Name: Andrea B

General Comment

I really like the new Form I-9 for the computer, but there are a few issues I see. One, when I tab between fields, it does not go directly to the next field, but instead selects the tip button. This is not very convenient. Also, Section 1 and Section 2 are nicely organized, and I like the error messages and tool tips, but it is not realistic to think that Section 1 and Section 2 are going to be completed at the same time. I think it would make more sense to have Section 1 as a separate form from Sections 2 and 3 to prevent employees from filling out more sections than they should.

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0300

Comment Submitted by Nataliya N.

Submitter Information

Name: Nataliya N

General Comment

Allow Employers to get access to web portal where they automatically verify the Employment Eligibility of an individual given his or her social security number, first and last name and date of birth. Thus, reducing the need in filling out forms.

PUBLIC SUBMISSION

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0301

Comment Submitted by Paula Stewart

Submitter Information

Name: Paula Stewart

General Comment

There absolutely needs to be the option to add data from an additional document in Section 3. For CapGaps, employers must re-verify an employee's I9 using both their expiring EAD card along with their I20 that reflects their extended work authorization (and H1B approval), and currently there is only space for 1 document which would not allow employers to process CapGaps for their employees.

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Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0302

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

General Comment

With our Government allowing so many illegal aliens - refugees - to relocate to the United States why do we even ask employees to do this form? What value does it serve? Thank you for your consideration of my question.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0303

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

General Comment

Several suggestions:

1. Attestation box 4: delete extra spaces between "work" and "until"
2. Preparer and/or Translator Certification - suggest not having the "No Preparer or Translator" box, as the instructions on the Form I-9 indicate "To be completed and signed if Section 1 is prepared by a person other than the employee." This box is likely to be overlooked by many people who will not use a preparer or translator, especially since the instructions say it is to be completed if prepared by someone else. The detailed instructions say to check the "No Preparer" box, but not many people read the detailed instructions.
3. Name info at top of page 2 - the revisions make it a little more obvious that something needs to be completed, but the separation where List A, B, and C is shown still makes it look like the required info is only below that area. Not including the employee's name at the top of page 2 was a very common error noted when reviewing the I-9s. An auto-fill feature is a moot point if hard copies are used by the employer.
4. Under Section 3, the "Name of Employer" and "Signature of Employer" boxes have been switched from the 03/08/13 version, but the instructions on page 13 of 15 are still in the same order. This may result in improper completion of the form.
5. #5 under List A of the acceptable documents shows a foreign passport and a Form I-94 are required to be presented; however, the employee is only required to list one or the other in Section 1. The highlighted changes message indicates it is streamlining the process for certain foreign nationals; however, it seems it would lead to confusion as to exactly what documents would need to be presented, and perhaps even possible claims of discrimination as far as Section 1 says to only list one item while the List A requires two pieces of information.
6. Page 1 of 15 of the instructions shows an expiration date of 03/31/2016 while all other dates have been shown as XX/XX/XXXX. Possible update needed?
7. Instructions on page 3 of 15, 5 of 15 (under Presenting Form I-9 Documents), 7 of 15 (under Entering Documents the Employee Presents List A), and 8 of 15 (under Full Name of List A Document) may be impacted by any possible revisions made based on what the employee must

present and/or indicate if submitting a foreign passport, Form I-94, etc.

8. Page 11 of 15 instructions, under "Full Name of List C Document", the U.S. Citizen ID Card should be identified as a Form I-197 (it currently shows Form I-97 - apparent typos).

9. While the instructions are very detailed regarding how the form should be completed, the number of pages (15) is a little overwhelming, and unfortunately is likely to be disregarded by employees and employers as it can take a long time to review. Additionally, many employees in production-oriented jobs are more interested in starting the job than taking the time to read all the info. Language barriers and education levels can also be an impediment to reviewing numerous pages of instructions.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0304

Comment Submitted by Susan Rack

Submitter Information

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General Comment

The CA National Notary Association (NNA) in conjunction with the CA Secretary of State has posted on the NNA website the following:

UPDATE 8-25-14: Restrictions For California Notaries

In August 2014, the California Secretary of State's Notary Public & Special Filings Section clarified with the NNA that California Notaries who are not qualified and bonded as immigration consultants under the Business and Professions Code Sections 22440-22449, may not complete or make the certification on Form I-9, even in a non-notarial capacity. The Secretary's office considers Form I-9 to be an immigration form. Any California Notary who is not an immigration consultant violates Government Code Section 8223(c).

The California Secretary of State's office has told the NNA that separate background checks are required for California Notary Public commission applicants who also wish to register as immigration consultants in the state.

My comment is that CA B&P Code seems to be in conflict with USCIS. The above states that even in a non notarial capacity, a CA may not complete or make the certification on Form I-9. I would like to see language in the form that a CA Notary may complete or make the certification of Form I-9 without also being a "Immigration Consultant". CA notaries have already been background checked and posted bond which should cover the notary's responsibility and ethic.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0305

Comment Submitted by Patti Hale

Submitter Information

Name: Patti Hale

General Comment

Put the from back to 1 page instead of 2 pages.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0306

Comment Submitted by Evan Raclaw

Submitter Information

Name: Evan Raclaw

General Comment

There should be separate choices on the I-9 form for people to select from, such as: Are you a US Citizen? Are you a US National? Are you a Legal Permanent Resident of the US? Are you otherwise a person who has been authorized to work in the US? US citizens should indicate if they obtained US citizenship by birth, by naturalization, by adoption, etc... Persons who are not US Citizens should then indicate what their immigration status in the US is, on the I-9 form. The form should then ask them on what date they obtained that particular status (or permission to work) that they have selected. They should then indicate on the I-9 form what documents they have to prove the status that they have already selected on the form.

In order to avoid confusion, the form should absolutely not combine two different questions, such as; Are you a US Citizen or National of the US? Confusing questions such as those types allow people who have made documented false claims to US Citizenship to eventually wiggle out of the situation by claiming they were unsure about what a US National is (or some other similar claim). There should be no ambiguity on the form. It needs to be very clear. The form should contain a notice to the person completing the form, written in plain English, stating what are the penalties and possible consequences for falsely claiming to be a US citizen. (Aliens who make documented false claims to US citizenship can be placed into removal/deportation proceedings. They can also be denied for various immigration benefits that may have applied for.)

The form should also ask the person completing the form to indicate that they understand fully the penalties and possible consequences of making false statements on the I-9 form, and that they have double-checked their answers and they are sure they have completed the form fully and correctly. In my experience with INS/USCIS for 20 years, people who have made documented false claims to US Citizenship on the Form I-9 frequently claim it was a simple error, due to a misunderstanding of the wording and terminology used on the form, and/or their confusion with the English language. You may want to consider making I-9 forms available in several languages. For example; there should be a form that contains both English and Spanish, a form that contains both English and Vietnamese, a form that contains both English and French, etc...

I have also found that various employers do not ensure that their employees complete the I-9 form completely and correctly. For example, some employers have their employees fill-out the I-9 form, but do not check to see that the form is actually signed and/or dated by the employee. This allows certain aliens to get away with working in the US, while not facing any possible future consequences for making any false statements or omissions on the I-9 form, and/or documented false claims to US Citizenship. The new electronic version of the I-9 form must be designed in such a way as to ensure it cannot be submitted unless it is first completed fully and correctly. Employers must be held accountable to ensure the I-9 forms are completed fully and correctly by their employees.

There should be a national database that federal agencies have access to, which reflects what persons completed I-9 forms and when. Many aliens who make documented false claims to US citizenship on their I-9 forms avoid the related consequences by simply claiming to various government agencies that they have remained unemployed. Those government agencies then have no way to search for the related I-9 forms those persons may have actually completed and submitted to their various employers. There needs to be a way for US government employees to check for I-9 forms that have been completed and submitted by employees to their employers.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0307

Comment Submitted by Jose Magana-Salgado, Immigrant Legal Resource Center

Submitter Information

Name: Jose Magana-Salgado

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Email: jmagana@ilrc.org

Phone: 2027778999

Submitter's Representative: Jose Magana-Salgado

Organization: Immigrant Legal Resource Center

General Comment

See attached file(s)

Attachments

Comment Submitted by Jose Magana-Salgado, Immigrant Legal Resource Center (Attachment)



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Electronically Submitted to via [Regulations.gov](http://www.regulations.gov)

December 4, 2015

Laura Dawkins

Chief, Regulatory Coordination Division, Office of Policy and Strategy
U.S. Citizenship and Immigration Services
U.S. Department of Homeland Security
20 Massachusetts Avenue, NW
Washington, DC 20529-2140

RE: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection (November 24, 2015); Docket No. USCIS-2006-0068

Dear Chief Dawkins:

The Immigrant Legal Resource Center (ILRC) submits the following comment in response to the notice of revisions made to Form I-9 and Form I-9 Instructions. Founded in 1979, ILRC is a national resource center that provides training, consultations, publications, and advocacy support to individuals and groups assisting low-income persons with immigration matters. ILRC works with a broad array of individuals, agencies, and institutions, including immigration attorneys and advocates, criminal defense attorneys, civil rights advocates, social workers, law enforcement, judges, and local and state elected officials.

ILRC is uniquely qualified to provide comments regarding the proposed regulations in light of its extensive training of practitioners and community outreach regarding the immigration process. This extensive technical knowledge includes regular trainings and seminars¹ and various publications. ILRC provides technical assistance on hundreds of lawful permanent resident issues every year to immigration practitioners throughout the United States. In light of this technical expertise, we submit the below comment.²

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¹ *Recorded Webinars*, IMMIGRANT LEGAL RESOURCE CENTER (Last accessed Nov. 19, 2015) <http://www.ilrc.org/trainings-webinars/recorded-webinars>.

² Underlined text indicates an insertion. ~~Strikethrough~~ indicates a deletion. For ease of formatting and readability, this comment does not use block quotes, but rather quotation marks in conjunction with indents.

I. COMMENT ON FORM I-90 INSTRUCTIONS

1. Page 3. Attesting to Your Citizenship or Immigration Status. Make the following changes:

“You must select one box to attest to your citizenship or immigration status.

1. A citizen of the United States.

WARNING: Falsely claiming you are a citizen of the United States has serious immigration consequences, including potentially making you deportable, inadmissible, or ineligible for future immigration relief. Be sure that you are a citizen before checking this box.”

2. A noncitizen national . . .”

False claims to citizenship can have serious immigration consequences for noncitizens including making individuals deportable, inadmissible, or ineligible for relief. For example, under 8 USC 1182(a)(6)(C)(ii)(I), a noncitizen who “falsely represents, or has falsely represented, himself or herself to be a citizen of the United States for any purpose or benefit” is inadmissible.³ Similarly, under 8 USC 1227(a)(3)(D), a noncitizen who falsely claims citizenship is deportable.⁴ To naturalize, a lawful permanent resident must have been admissible at the time of adjustment.⁵ Consequently, if an individual was inadmissible as a result of a false claim to citizenship and was able to successfully adjust status, that individual would still be precluded from naturalizing. Moreover, courts have found that falsely claiming citizenship through the I-9 constitutes a false claim to citizenship and renders an individual inadmissible. For example, the BIA has held that falsely claiming to be a citizen through the I-9 triggers inadmissibility.⁶ Similarly, the Eighth Circuit has held that this conduct also triggers removability.⁷

In our decades of experience as a resource center, we have seen a multitude of instances where people sincerely—but incorrectly—believed they were U.S. citizens. For example, it is not uncommon for immigrants who married U.S. citizens to erroneously believe they automatically became U.S. citizens upon marriage. Many immigrants who are lawful permanent residents may refer to themselves as citizens and not be cognizant of the difference. This is especially true where an individual does not possess a high level of education or where the individual was not well-informed by his or her legal provider, if any. Providing a warning about the consequences of making a mistake is especially important in light of the USCIS position that an honest mistake does not excuse a person from the severe consequences of a false claim to citizenship, except for the very narrow exception provided by statute.

³ 8 U.S.C. § 1182(a)(6)(C)(ii)(I) (West 2015).

⁴ 8 U.S.C. § 1227(a)(3)(D) (West 2015).

⁵ 8 U.S.C. § 1427(a) (West 2015) (“No person, except as otherwise provided in this subchapter, shall be naturalized unless such applicant, (1) immediately preceding the date of filing his application for naturalization has resided continuously, after being *lawfully admitted for permanent residence*) (emphasis added).

⁶ *Matter of Bett*, 26 I&N Dec. 437, 437-38 (BIA 2014).

⁷ *Etenyi v. Lynch*, No. 14-3397 (8th Cir. 2015).

USCIS estimates that approximate 55,400,000 individuals will complete the I-9,⁸ many of whom will likely not be U.S. citizens. As the I-9 represents one of the most common mediums for noncitizens to erroneously or accidentally claim they are U.S. citizens, it is incumbent on USCIS to provide some sort of warning or notice to the potential consequences of falsely claiming citizenship. Notably, preventing noncitizens from false claiming citizenship will preserve their eligibility for future naturalization, aligning with the White House Task Force on New Americans' goal to increase the rate of naturalization among lawful permanent residents.⁹ Moreover, by preventing individuals from falsely claiming citizenship and becoming inadmissible and deportable, USCIS will reduce the future adjudication burden of U.S. Immigration and Customs and Enforcement (ICE). Preventing false claims to citizenship would reduce the amount of individuals subject to enforcement proceedings and allow ICE to use its limited resources more efficiently.

Thank you for your consideration of ILRC's views. Should you have any questions regarding these comments, please feel free to contact Jose Magana-Salgado at (202) 777-8999 or jmagana@ilrc.org.

Sincerely,



Jose Magana-Salgado
Immigration Policy Attorney

⁸ 80 Fed. Reg. 73201, 73201 (Nov. 24, 2015).

⁹ *Strengthening Communities by Welcoming All Residents: A Federal Strategic Action Plan on Immigrant & Refugee Integration*, The White House Task Force on New Americans, April 2015, available at https://www.whitehouse.gov/sites/default/files/docs/final_tf_newamericans_report_4-14-15_clean.pdf.

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Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0308

Comment Submitted by Donna Monroe

Submitter Information

Name: Donna Monroe

General Comment

I am very pleased with the proposed changes to the Form I-9. Although it adds a lot of verbiage to the instructions, it certainly makes for a very detailed experience in using the Form I-9. The fillable form has been discussed with my peers for a good while now. It would certainly narrow the number of technical errors made, especially by employees on page 1. Many times their handwriting is not ideal and digits or words are hard to read. I appreciate your efforts in revising the form, making it an accepted fillable form, and asking for public comments. Thank you, Donna S. Monroe

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0309

Comment Submitted by Kristy Curelaru

Submitter Information

Name: Kristy Curelaru

General Comment

See Attached

Attachments

Comment Submitted by Kristy Curelaru (Attachment)

From: Kristy Ayers-Curelaru [mailto:ka616@nova.edu]
Sent: Friday, December 4, 2015 4:13 PM
To: USCIS FR Comment <USCISFRComment@uscis.dhs.gov>
Subject: I-9 Comment Docket ID USCIS-2006-0068 - Individual Comment

Good afternoon:

Please see attached.

Thank you.

Kristy Curelaru

I. INTRODUCTION

If the government required all employer's to use E-Verify as opposed to Form I-9, for all employees, it would greatly reduce employer liability with respect to violations of The Immigration Reform and Control Act of 1986 ("IRCA 1986") including, discrimination of employees based on race and national origin and for hiring illegal workers. Further, employers should be required to use the E-Verify system for all employees retroactively to successfully identify current illegal workers. It is time to bring this 1980's form and process into the age of technology with an electronic verification system such as the current voluntary electronic verification system, E-Verify.

There have been twelve different editions of Form I-9 since March 20, 1987.¹ Minimal changes have been made to the form throughout the years leaving the November 21, 1991 edition not much different from the August 7, 2009 edition, eighteen years later.² Aside from the form's structure, the only differences between the November 21, 1991 edition and the August 7, 2009 edition, are the separation of an employee's of self-identifying as, "a citizen or national of the United States" or self-identifying as either "A citizen of the United States" or "A noncitizen national of the United States . . .".³ Also the term "employment authorization," noted in the November 21, 2007 edition, had been replaced with "employment eligibility" in the August 7, 2009 edition.⁴

Upon review of the August 7, 2009 edition of Form I-9 and the current March 8, 2013 edition, little changes can be seen apart from the structural change of turning a one page form into two pages and further defining terms such as last name to show "(Family Name)".⁵ The March 8, 2013 edition added the option for employees to enter their e-mail address and telephone number should they choose.⁶ Further, the March 8, 2013 edition created more fields to request and require passport information from employees whose work authorized status was granted upon their arrival into the United States.⁷

There are many different views on the effectiveness of Form I-9 to prevent illegal workers and to confirm the identity of an employee. The majority do confirm that Form I-9 is not sufficient. Though it comes with a tedious completion process, Form I-9 has its benefits. There are also some drawbacks to the use of and reliance on Form I-9 to confirm an employee's identity and authorization to work in the United States.

II. THE BENEFITS OF FORM I-9

¹ U.S. Citizenship and Immigration Services, Which I-9 Form Should I Use, available at <http://www.uscis.gov/i-9-central/complete-correct-form-i-9/which-form-i-9-should-i-use> (last visited May 30, 2014).

² Form I-9 (Rev. 11-21-91) and Form I-9 (Rev. 08/07/09).

³ Form I-9 (Rev. 11-21-91) and Form I-9 (Rev. 08/07/09).

⁴ Form I-9 (Rev. 11-21-91) and Form I-9 (Rev. 08/07/09).

⁵ Form I-9 (Rev. 08/07/09) and Form I-9 03/08/13.

⁶ Form I-9 (Rev. 08/07/09) and Form I-9 03/08/13.

⁷ Form I-9 (Rev. 08/07/09) and Form I-9 03/08/13.

Form I-9 is readily accessible and can be downloaded from the USCIS' website or ordered by telephone from the USCIS.⁸ Form I-9 also is free and does not require filing with the USCIS or any other government agency.⁹ Form I-9 is a paper document that can be completed anywhere in the United States, which can be particularly convenient for companies that lack a home office or have employees working remotely such as sales representatives.

III. DRAWBACKS OF FORM I-9.

The biggest drawback is that there are no checks and balances for the information input into Form I-9. It is up to the employer and/or its vendors to ensure the documentation is in order and the Form I-9 is processed properly. An employer representative who is more than likely not an immigration or a document expert and authenticator, will be reviewing and confirming the legitimacy of the documents without government feedback or oversight.¹⁰ Several documents listed as acceptable documents by the USCIS do not have photographs which makes it increasing difficult to ensure the employee completing the Form I-9 is who he or she claims to be and the rightful owner of the presented documentation.¹¹ According to IRCA 1986, "A person or entity has complied with the requirement of this paragraph with respect to the examination of a document if the document reasonably appears on its face to be genuine."¹²

Thanks to the flexibility of the paper Form I-9, the form can be completed off-site where the employee is located even if they work remotely. However, it can be harder to confirm the compliance of the preparation and processing of Form I-9 when they are done "on the road". An employer can try to resolve this issue by providing trainings to staff and requiring Form I-9s that are completed off-site to be sent back to the person responsible for the management and compliance of Form I-9. This would allow for the review of the form to ensure the Form I-9 was completed properly. Unfortunately, given that there is a three day time limit on the completion of the Form I-9, if the Form I-9 is incorrect there may not be enough time left to have the Form I-9 revised/completed within the required timeframe.¹³ Not completing the Form I-9 in a timely manner can lead to employer violations and penalties.¹⁴

IV. BENEFITS OF E-VERIFY.

E-Verify is an extremely useful tool for employers to confirm the identity and work authorization of its employees. The system instantly displays a result which may be that the employee or the DHS needs to take more steps.¹⁵ Employers can feel more confident that they have done all they can to verify the employee and therefore do not need to be so concerned about

⁸ U.S. Citizenship and Immigration Services, Forms, available at <http://www.uscis.gov/forms> (last visited May 30, 2014).

⁹ U.S. Citizenship and Immigration Services, I-9, Employment Eligibility Verification, available at <http://www.uscis.gov/i-9> (last visited May 30, 2014).

¹⁰ Pub. L. No. 99-603, 100 Stat. 3359 (1986)

¹¹ *Id.*

¹² *Id.*

¹³ U.S. Citizenship and Immigration Services, Handbook for Employers Guidance for Completing Form I-9 (Employment Eligibility Verification Form) (2014).

¹⁴ U.S. Citizenship and Immigration Services, I-9, Penalties, available at <http://www.uscis.gov/i-9-central/penalties# I-9 Central> (last visited May 30, 2014).

¹⁵ U.S. Citizenship and Immigration Services, The Verification Process, Overview of the Verification Process, available at <http://www.uscis.gov/e-verify/employers/verification-process>. (last visited May 30, 2014).

fraudulent documents and hiring illegal workers. As noted above, there is a photograph matching tool that will show the employer the photograph on the document presented by the employee from list A or B such as the passport photograph.¹⁶ This is very comforting to an employer to see the United States Department of State confirm the picture of who they issued the passport to.¹⁷

E-Verify also has a program, Records and Information from Department of Motor Vehicles for E-Verify program (“RIDE”). If an employee provides an identification document issued by a motor vehicle agency, RIDE will verify it against motor vehicle agency records.¹⁸ Initially, the RIDE program was launched as a pilot in Mississippi however now it is available in all 50 states.¹⁹ Unfortunately, as of September 2013, only three states Florida, Idaho, Mississippi have joined the RIDE program.²⁰

If an employee or employer has questions regarding the processes of Form I-9 or E-Verify, USCIS offers a dedicated helpline (in English and Spanish) and videos to answer any questions or help troubleshoot any issues.²¹ E-Verify also has a user-friendly search engine which allows employers to check and ensure that all employees have been processed.²² In fact, even employees can check their own status via, E-Verify Self Check.²³ This helps employees to check in advance if they have any SSA or DHS issues that they need to address before applying for a job.²⁴ Employers are not allowed to require employees to use this feature for the purposes of employment or any other reason.²⁵

E-Verify also offers immigration benefits to foreign national students who graduate from a college or university in the United States. Typically, these students are given permission to work in the United States for a period of one year in the field of their studies after they graduate.²⁶ This one year work authorization is called optional practical training. In a ruling by the DHS in April 2008, if an employee graduated with a degree in science, technology, engineering, or mathematics (STEM) and will be working for an employer who participates in E-Verify, the employees optional practical training (work authorization) can be extended for an additional seventeen months.²⁷

V. DRAWBACKS OF E-VERIFY

¹⁶ U.S. Citizenship and Immigration Services, E-Verify User Manual For Employers (2013). Page 20.

¹⁷ *Id.*

¹⁸ U.S. Department of Homeland Security, Privacy Impact Assessment Update for the E-Verify RIDE DHS/USCIS/PIA-030(c) May 08, 2013, available at https://www.dhs.gov/sites/default/files/publications/privacy_pia_uscis_ride_20130508.pdf. (last visited May 30, 2014).

¹⁹ *Id.*

²⁰ U.S. Citizenship and Immigration Services, History and Milestones, available at <http://www.uscis.gov/e-verify/about-program/history-and-milestones>. (last visited May 30, 2014).

²¹ U.S. Citizenship and Immigration Services, What’s New Archive, available at <http://www.uscis.gov/e-verify/about-program/whats-new/whats-new-archive>. (last visited May 30, 2014).

²² *Id.*

²³ U.S. Citizenship and Immigration Services, E-Verify User Manual For Employers (2013). Page 5.

²⁴ *Id.*

²⁵ *Id.*

²⁶ 8 CFR Parts 214 and 274a.

²⁷ <http://www.uscis.gov/archive/archive-news/questions-and-answers-extension-optional-practical-training-program-qualified-students>

Though E-Verify has its benefits, it also has some significant drawbacks. The first is the cost needed to support such a system. It takes a lot of staff to support employers all across the United States not only to answer questions but to troubleshoot information technology issues.

Another issue is accessibility, as not all employers have access to the internet to be able to access the E-Verify system. This would mean that special accommodations would need to be provided for these employers which may also be costly.

Additionally, not all government agencies are on-board particularly departments of motor vehicles for all fifty states.²⁸ This leaves room for fraudulent List B, identification documents being provided by an employee such as driver's licenses and permits.

Further, E-Verify is a government system thereby making it less likely to be flexible to meet an employer's specific needs. E-Verify like most systems can have a system error which can falsely create a negative result for an employee that is authorized to work in the United States.

VI. CONCLUSION

E-Verify should replace Form I-9 for the purposes of verifying the employee's identity and authorization. As discussed, Form I-9 is a paper form, which in and of it has no checks and balances. There are no form adjustments that can create a check and balance system. Most employers do not seek assistance in the processing of Form I-9 because they either do not know they are doing it wrong or do not realize they need to complete Form I-9 for each employee. Replacing Form I-9 with E-Verify as a requirement for satisfying IRCA 1986 would allow employers to get a fresh start. It would also be beneficial for employers to submit E-Verify cases for all employees to ensure their current workforce is work authorized.

E-Verify is not a perfect system and it does have its disadvantages. As noted previously, the biggest disadvantages of E-Verify are its costs, accessibility, gaps in information sharing, and the potential for technical errors that can have a major impact on an individual authorized to work in the United States. Most of these disadvantages can be overcome. For the significant costs of running E-Verify, USCIS can charge a small monthly fee for use of the system by employers commensurate to the size of their workforce to cover the cost. Considering that every employer in the United States would need to use this system to on-board employees, even five dollars a month would be significant. E-Verify recently reached a voluntary membership of half a million employers currently participating in E-Verify which multiplied by five dollars a month is twenty-five million dollars a month.²⁹ It would be expected that an employer would gladly pay five dollars a month to avoid the cost, hassle and negative publicity for violations of IRCA 1986. USCIS can offer free use to charitable and non-profit organizations which could be one user account for those types of organizations to save the cost of multiple user accounts. Each account log-in can be limited in view to protect the privacy of the other employers sharing the account.

If an employer does not have internet access to allow them to log onto the E-Verify system, E-Verify hubs can be set up at local libraries or post offices with a library or postal employee

²⁸ https://www.dhs.gov/sites/default/files/publications/privacy_pia_uscis_ride_20130508.pdf

²⁹ <http://www.uscis.gov/news/news-releases/half-million-companies-now-participate-e-verify-0>

designated to review and accept the documents. The Department of State currently uses certain post offices, libraries and municipal offices to accept and assist with passport applications.³⁰ Some post offices will even offer to take your passport photograph.³¹

Finally, all departments of motor vehicles should be required to sync their systems to E-Verify in order to confirm biographical data and photograph matches. Illegal workers are a federal issue and should not be at the discretion of the local Department of Motor Vehicle. The American Association of Motor Vehicle Administrators Network Service hosts the connection between E-Verify and the state Motor Vehicle Agencies.³² Once the link has been made it should stay on a constant feed resulting in a one-time fee.

³⁰ U.S. Department of State, Bureau of Consular Affairs, U.S. Passports and International Travel, available at <http://travel.state.gov/content/passports/english/passports/information/where-to-apply.html>. (last visited May 30, 2014).

³¹ U.S. Department of State, Bureau of Consular Affairs, Passport Acceptance Facility Search Page, available at <http://iafdb.travel.state.gov/>. (last visited May 30, 2014).

³² U.S. Department of Homeland Security, Privacy Impact Assessment Update for the E-Verify RIDE DHS/USCIS/PIA-030(c), May 08, 2013, available at https://www.dhs.gov/sites/default/files/publications/privacy_pia_uscis_ride_20130508.pdf. (last visited May 30, 2014).

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0310

Comment Submitted by Keshia Fletcher

Submitter Information

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General Comment

We use a paper form of the form I9 due to our multiple locations. The only change I see that is unnecessary or would cause confusion for our individuals that fill the forms out would be on page 2, the first line of section 2, the addition of the "Employee Citizenship Status". Having their legal name at the top of page 2 makes sense especially in keeping paper copies properly together. An employee citizenship status box that is asking for the mere numerical choice of citizenship from the first page of the I9 seems purposeless on the second page of the I9. My suggestion is to just remove that box completely.



Comment Submitted by Anonymous

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

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Dec 9, 2015

[Show More Details](#) 

Comment

I would like the agency to address an issue with one of the fields and the associated guidelines for it on Form I-9 because it can elicit sensitive information that could be used against the employee in a discriminatory manner (that in some cases is not necessary to properly verify the employee). The field is the "Other Names Used" field, and the affected employees are transgender individuals and others who've legally changed their name to avoid discrimination, when the former name is indicative that they've changed gender or is suggestive of their race/religion/national-origin/etc. Additionally employees who prefer not to divulge a former name for privacy reasons, such as adopted individuals or domestic violence victims, are also affected. Being an activist for their community and the fact that they're often severely discriminated against by their employers my first and foremost concern is for transgender people though, especially now that many other federal agencies are finding ways to protect their privacy whenever possible.

I understand the purpose of the "Other Names Used" field, and why it was changed in 2013 from asking for just the "maiden name" of the employee, but that change had the serious side-effect of burdening the aforementioned groups (since by definition a maiden name refers only to a last name changed due to marriage, names changed for the reasons mentioned above didn't count). However the way the guidelines were written (asking the employee to list all legal names they've used without further qualification other than to include their maiden name) is overreaching and adversely affects employees in the groups mentioned.

There are two cases in which it is of a practical necessity to have an employee provide a former legal name:

1. The employee presents documentation to establish their identity and/or work authorization which does not show their current legal name.
2. The employee has not updated their Social Security record to reflect their current legal name, if the employer participates in E-Verify.

When neither of those apply an employee (especially one whose former name elicits sensitive information as mentioned in the first paragraph) should not be required to provide said former name.

A quick way to resolve this that can be implemented as soon as the rule is approved is to post a question-and-answer on the FAQ page which says that if an employee has privacy and/or discrimination concerns with providing a former name in the "Other Names Used" field, including but not limited to transgender employees who have legally changed their name and gender, then providing said name is required only when one or both of the above cases apply in the employee's case. Doing this wouldn't require a change to the form or compromising the field's function for the general population.

I have been attempting to bring this issue to the attention of whoever is in charge of making such decisions, including responding to a similar idea (specifically dealing with the transgender issue) on E-Verify Listens. However after several months nothing has been accomplished so far, and some of the responses on there appear to be from those who don't understand the issues at stake here (and think it's merely a semantic suggestion), presumably because they've only dealt with name changes from marriage or divorce (where the former name itself does not directly indicate anything sensitive like the employee's marital status or sexual orientation, but rather just that they once had a different last name). Also, if the intent of the field all along is to only apply to other/former last names the employee has used, clarifying that would solve the concerns of the transgender community (but not necessarily the other aforementioned groups) because their concern is a former given name associated with the gender they were assigned at birth.

I would like you to please consider this or another idea that alleviates transgender people and others from being required to provide a former name that is not of practical necessity to have and could lead to discrimination and/or privacy issues that wouldn't otherwise be a factor, and implement it in a timely matter. Another point is this wouldn't be a concern for a form used and seen only by a government agency, but since I-9 must be completed in front of and kept on file by an employer who may discriminate against their employees I do. I also realize there are cases where it's unavoidable for an employee to need to provide sensitive information to their employer in the I-9 process, such as an employee with temporary work authorization, but since a former legal name isn't practically necessary information except in the cases I mentioned that doesn't apply here.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0312

Comment Submitted by Anonymous

Submitter Information

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General Comment

I see that my comment on a more general USCIS inquiry for ideas that began about a week before the proposed I-9 was released was cross-posted over here. As I said in my first comment here I am largely pleased with the "Other Last Names Used" proposal since that solves my primary concern of transgender people who appear to be required to provide a former given name that "outs" them with the current "Other Names Used" designation. If USCIS wants to address the other groups I mentioned (which are my secondary concern) then the instructions could specify that the only former last names which must be provided are those changed due to marriage or divorce absent (and thus the most likely to have insufficient documentation or a Social Security record that isn't updated with the current legal name) - e.g. the last name at birth of someone who was adopted or naturalized (which was changed in said process) would not need to be provided if they have adequate documentation with their current last name, especially if the name would be indicative of their national origin or other legally protected status in employment. (If the field were to still apply to any part of the employee's legal name then a transgender person's given name(s) before changing gender should also be exempt from being required along with the aforementioned groups, but if the proposed I-9 remains with "Other Last Names Used" then of course the issue with transgender employees will be moot.)

As I also said in another comment the draft form's "Additional Information" section could also be utilized if the employee has a reason to address a possible documentation or Social Security record mismatch issue related to a less common case of an alternate name used (but providing said name(s) should not be mandatory unless actually needed).



Comment Submitted by Anonymous

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

The proposed changes are quite extensive for employers who electronically fill out the Form I-9 using software. I am concerned about the extremely short time frame of 2 months to make such extensive updates. Please consider this a request for an extension of the existing form. The previous Form I-9 update allowed for 6 months to make software changes.

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Tracking Number: 1jz-8mtc-rp7v

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Comment Submitted by Anonymous

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

Please add a box at the top titled Retain Until: or "Retention Date" so that we may record it for our terminated employee's I-9 retention binder.

Thank you

Comment Period Closed
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Comment Submitted by Laura Webb

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

I would like to go back to a single page form as opposed to the current double sided form that is currently in use.

I would also like to see that the verification period be extended to 5 days instead of 3. We do mass hirings during the summer and beginning of the school year and the few extra days would greatly help.

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Comment Submitted by Cindy Rawlings

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

I think that on the front page the "preparer or translator" should be on the back and the top 4 lines of section 2 employer (their I.D.) should be on the front.
we have 22 location that fax into the main office to get E-checked. that way they would only have to fax the front page. there are not computers available for them to use the electronic forms.

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Comment Submitted by Mary Lopez

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

As a state agency we believe there may be some confusion in the Certification statement in Section 2 where it states, "State workforce agencies may omit the date the employee began employment." Since our I-9 process is decentralized our users may find this statement confusing and may not indicate a hire date.

Comment Period Closed
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[Show More Details](#) 



Comment Submitted by Mildred Perez

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

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Dec 18, 2015

[Show More Details](#) 

Comment

I have close to 15 years of experience in training people to complete I-9s and reviewing them. The most common mistakes I am seeing and possible solutions are:

1. Forgetting to enter the employee's name on the top of Section 2 - if done electronically it would help if that portion gets automatically completed once the employee puts their name on Section 1.
2. Employee forgetting to mark one of the attestations -it would help if this was a required field and could not go forward without it being completed. Maybe program the I-9 so that the required fields look red until information is entered.
3. The employee's attestation does not match the documents provided - Once the employee completes their section, the person reviewing the documents can only see a list of the acceptable documents based on that attestation.
4. List A and a List C document being accepted - Once something is entered in List A - it should not permit them to enter anything in List B or C. In order to ensure that additional documents are not being requested by the Employer, make it part of Section 1 where the Employee chooses which documents he wants to provide and in Section 2 the verifier confirms the documents.
5. Social Security Cards being accepted with the notation of "Not valid without DHS authorization" or similar - Add a question where it asks "Does the social security card have a notation such as...?" Then a warning pop up stating "This card is not valid for completion of the I-9"
6. Onboarding systems with electronic I-9s have an issue with IDs that do not have an expiration date on them because a date is a required field. Have a pop up warning explaining how those need to be handled"
7. Native American Tribal documents - The variety of these documents is vast and further clarification on what is acceptable is needed in the manual.

More details concerning verifying the authenticity of documents in the I-9 Handbook would be extremely helpful.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0319

Comment Submitted by Stacey Day

Submitter Information

Name: Stacey Day

General Comment

On Section 1:

Employee's E-mail Address and Employee's Telephone Number are not necessary

Preparer and/or Translator Certification - The option of No Preparer or Translator is not necessary if it is to be completed only if Section 1 was prepared by a person other than the employee.

On Section 2:

Not sure why there is a spot for Employee Citizenship Status

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0320

Comment Submitted by Mollie Malloy

Submitter Information

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General Comment

Honestly, we have a great deal of trouble with the remote hire. It would make a great deal more sense for USCIS to drop this form and invest its time and efforts into beefing up E-verify for everyone. Set up a broad system that employees can access as they are filling out their new hire paperwork. Make it possible to go on line at home, complete verification through e-verify and then submit the receipt to the employer with their other paperwork. USCIS will have to coordinate their effort with DOS, and Social Security. The I-9 form is terribly inefficient! I spend 4 hours a week on paper I-9's with stupid errors on them.

We train our staff on the I-9 annually and we have a video on our web site that can be accessed by employees 24/7 that explains what our orientation contacts need to know about the I-9 -- Nevertheless -- it gets screwed up constantly. People just don't understand the form and it isn't really fair that employer's should be penalized because USCIS can't seem to get its act together with a modern/electronic rendition of this very important aspect of U.S. employment. The I-9 should be retired altogether.

While I appreciate USCIS effort to make the form more error proof -- at the end of the day it is still a paper form. Will there be an option to save the I-9 form on the USCIS website so the employer can go in and complete their part when the new employee comes in for the I-9 interview? Or will it be the usual, they come in with Section 1 printed and the company fills out Section 2 by hand?

It is a nice idea to access the form on USCIS web site, but, frankly, it won't work very well in the hiring process for most employers.

Kind regards,

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0321

Comment Submitted by Alessandra Serboli

Submitter Information

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General Comment

Would it be possible to add calendars for each of the date fields? This would lock down the date formatting and ensure consistency and accuracy of dates/expiration entered.

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Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0322

Comment Submitted by Akilah Charlemagne

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General Comment

I am an HR Business Partner who works for a leading Payroll Technology provider. I support 60 Clients and many of them have a remote workforce. They hire employees virtually, have teleconference meetings and may never physically meet some of their employees. They often ask, "how are we supposed to physically verify an employee's eligibility to work in the U.S.?" They ask can we use a live web meeting and have an installed camera capture the documents even though we cannot physically touch these documents? Some have opted to use notary publics - but the liability still falls upon the employer.

I understand that e-verify is used in conjunction with the I-9 and is a separate issue & legal mandate. I believe that if e-verify is required for all employers - regardless of the state or the employee headcount - employers can enter the information that is provided, without physically verifying said documents, and e-verify can confirm whether the employee is authorized to work in the US.

This is a case where the law/regulation has not caught up with the technology. As a Human Resource professional and advocate of simplifying processes, I believe there is a large gap with this process. Thank you for your consideration!

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0323

Comment Submitted by Mardell Criddell, HVJ Associates

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Organization: HVJ Associates

General Comment

I would like to see for company's that have to do E-Verify a place on the I9 for the E-Verify case number to go since it is required for us to that number on the form.

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0324

Comment Submitted by Patrick Lewis

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General Comment

The Form I-9's retention period should be longer than the current 3 years after date of hire and 1 year after date of termination. It should be simply 10 years after date of termination. This way, those of us who investigate companies that knowingly hire illegal aliens can use I-9s of formerly employed illegal aliens as evidence of a pattern and practice of hiring illegals. Also, this will increase the chances of a company facing monetary fines for I-9 paperwork errors.

The fines for paperwork errors need to be increased to \$500-5000 per I-9. This will send a clear message to the business community that not complying with I-9 requirements will be very costly, even for first time offenders.

Mandate that companies make clear, legible and viewable copies of all documents submitted by employees. Too many times the companies make copies of IDs and it is impossible to see the picture on the ID.

Mandate that companies request immigration documents for those employees who state in section 1 that they are legal alien residents. This would not be discriminatory as the employee has already stated that they possess a Green Card.

For those companies that are enrolled in e-Verify, mandate that they attach printouts of e-Verify results to the I-9.

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Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0325

Comment Submitted by David Pazmino

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General Comment

Have the form available to be completed in Spanish nationally

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0219

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9, OMB Control No. 1615-0047; Correction

Document: USCIS-2006-0068-0326

Comment Submitted by Akintunde Adeyemi

Submitter Information

Name: Akintunde Adeyemi

General Comment

See attached

Attachments

Comment Submitted by Akintunde Adeyemi

From: Akintunde Adeyemi [mailto:akins2002@hotmail.com]
Sent: Thursday, December 24, 2015 1:16 PM
To: USCIS FR Comment <USCISFRComment@uscis.dhs.gov>
Subject: Federal Register Form I-9, Employment Eligibility Verification

Title: Propose changes of forms I-9 Employment Eligibility Verification

First of all let review the meaning of forms I-9, the form is used for verifying the identity and employment authorization of individuals hired for employment in the United States. All U.S employers must ensure proper completion of form I-9 for each individuals they hire for employment in the United State this includes citizens and non-citizens both employees and employers or authorized representatives of the employer must complete the form. On the form, an employee must attest to his or her employment authorization. The employer must examine the employment eligibility and identity documents an employee present to determine whether the document reasonably appear to be genuine and to relate to the employee and record the document information on the form I-9.

Now in the view of the meaning of form I-9 Employment Eligibility verification form the reason of the existence of such form as being describe as method of collecting employee details so as to ascertain proper information working in the system of U.S economy. If there is going to be any changes in this form I-9 their should be provision to include majority worker's related to as illegal immigrant in the U.S or better still people's that can only provide their names and address with phone number as identification in which this people prefer to work in the U.S and ready to pay taxes on the money they are making which I feel this will contribute a real economical boost to the U.S economy because if millions of illegal immigrant could be working illegally in which they pay no tax definitely that is not good for the economy but when they pay tax it will boost the federal revenue. On the contrary to the propose change of this form should be to help reduce technical error and help cutomers complete the form online because if the online base version of the form I-9 is introduce many people in the United State will appreciate it because it will increase timelines submission and ecourage people that work in the U.S to be able to fill the form anytime they prefer .

God Bless America

From: Akintunde Adeyemi [mailto:akins2002@hotmail.com]
Sent: Thursday, December 24, 2015 1:16 PM
To: USCIS FR Comment <USCISFRComment@uscis.dhs.gov>
Subject: Federal Register Form I-9, Employment Eligibility Verification

Title: Propose changes of forms I-9 Employment Eligibility Verification

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God Bless America

PDF

www.nuaa.com

PUBLIC SUBMISSION

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Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0219

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9, OMB Control No. 1615-0047; Correction

Document: USCIS-2006-0068-0327

Comment Submitted by Julie Strother on behalf of Steve Simon, Office of Minnesota

Submitter Information

Name: Julie Strother

Organization: State of Minnesota

General Comment

See attached

Attachments

Comment Submitted by Julie Strother on behalf of Steve Simon, Office of Minnesota

From: Strother, Julie (OSS) [mailto:Julie.Strother@state.mn.us]
Sent: Thursday, December 24, 2015 5:19 PM
To: USCIS FR Comment <USCISFRComment@uscis.dhs.gov>
Subject: Comment re Form I-9: Revision of a Currently Approved Collection [OMB Control Number 1615-0047]

Please see the attached comment from The Minnesota Secretary of State, Steve Simon.



Julie Strother

Director of Government Relations and Counsel for Safe at Home

Office of Minnesota Secretary of State Steve Simon

180 State Office Building, 100 Rev. Dr. Martin Luther King Jr. Blvd.

St. Paul, MN 55155

Ph: 651-201-1342

Website: <http://www.sos.state.mn.us>



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STATE OF MINNESOTA
Office of the Minnesota Secretary of State
Steve Simon

December 23, 2015

Department of Homeland Security
United States Citizenship and Immigration Services
Office of Policy and Strategy, Regulatory Coordination Division
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: Comment in response to Agency Information Collection Activities: Employment Eligibility Verification, Form I-9: Revision of a Currently Approved Collection [OMB Control Number 1615-0047]

Dear Director Rodriguez:

The Minnesota Secretary of State serves as head of Safe at Home, Minnesota's address confidentiality program. I write to you as head of Safe at Home to comment on the proposed revisions to the Form I-9 and urge changes to the current version of the form. The current Form I-9 creates security vulnerabilities for participants in Minnesota's Safe at Home program because it prevents participants from using their designated Safe at Home address when completing the form. I urge the Department of Homeland Security, Citizenship and Immigration Services, to consider modifying the Form I-9 to make clear that Safe at Home participants can use their designated address when completing the Form I-9.

To understand why the current Form I-9 presents security concerns for address confidentiality program participants, it is helpful to understand how the Safe at Home and other address confidentiality programs function to protect program participants. Minnesota's Safe at Home program is an address confidentiality program for victims of stalking, domestic violence, sexual assault, and others who fear for their safety. The Office of Secretary of State assigns participants in the Safe at Home program a legal substitute address in the form of a P.O. Box. In Minnesota this P.O. Box can be used in place of the participant's physical address whenever an address is required. First class mail sent to the P.O. Box is forwarded to the participant's actual address by our office, and all participants designate the Secretary of State as their agent for legal service of process. If law enforcement needs access to the physical address of a program participant, Safe at Home staff are available at all times to provide the address in emergency situations.

All address confidentiality programs across the country operate similarly to Minnesota's Safe at Home program. Minnesota alone has over 2,000 individuals currently enrolled in the Safe at Home program, representing over 800 households. These numbers will increase as our program continues to grow over the next several years.

Prior to 2013, address confidentiality program participants were not prohibited from using the assigned P.O. Box when completing the Form I-9. However, in March of 2013, the Department of Homeland Security, Citizenship and Immigration Services, revised the Form I-9 to specifically prohibit the use of a P.O. Box in the address field. This change required disclosure of the participant's physical address even though the P.O. Box is the address confidentiality program participant's legal address. Providing a physical address is a serious safety concern for program participants, forcing them to disclose their physical addresses to numerous strangers. Considering that the purpose of the Form I-9 is to "to document verification of the identity and employment authorization of each new employee" (www.uscis.gov/i-9) and not to prove where the new employee resides, the requirement of these disclosures is unnecessary. Additionally, the address requirement on the form is inconsistent with the List of Acceptable Documents, which does not state that an acceptable document must contain the employee's current physical address. In Minnesota, and in other states with an address confidentiality program, participants use their P.O. Box address on all official documents (such as their driver's license or state identification card). Participants often use these documents to meet the document requirement for the Form I-9.

Minnesota is one of many states that assign a P.O. Box address to participants in their address confidentiality program. To be fully compliant with the Form I-9 requirements, Minnesota requests a revision to the form or instruction from your agency allowing participants in address confidentiality programs through the country to provide their assigned confidentiality program address on the Form I-9. Permitting address confidentiality program participants to indicate their assigned confidentiality program address on the Form I-9 is in the best interest of public safety.

I urge the Department of Homeland Security, Citizenship and Immigration Services, to allow participants in address confidentiality programs such as Safe at Home to use the P.O. Box when completing the Form I-9 so that they do not need to compromise their safety.

Sincerely,



STEVE SIMON

Minnesota Secretary of State

PUBLIC SUBMISSION

As of: January 05, 2016
Received: December 31, 2015
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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0328

Comment Submitted by Luci Vasquez

Submitter Information

Name: Luci Vasquez

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Fax: n/a

General Comment

Can a "comment" box/field be added to Page 8 for Employer Representatives completing I-9 re-verifications to have ability to add comments when using a receipt for 240-day or 90-day rule I-9 updates? This would be very helpful.

PUBLIC SUBMISSION

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Docket: USCIS-2006-0068

Agency Information Collection Activities:Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0329

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

General Comment

I like the proposed changes. I would suggest a place to record the retention/destruction date. Auto filling the name in section 2 from section 1 would be helpful. Also, make the list of acceptable documents interactive.



Comment Submitted by Jacqueline Chin

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0330

Tracking Number: 1k0-8n72-vf1a

Document Information

Date Posted:
Jan 4, 2016

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Comment

WHAT IS THE PURPOSE OF THIS FORM?

1) Could the USCIS clarify if the I-9 is required for Volunteers and Unpaid Interns that meet the U.S. Department of Labor criteria for Volunteer or Unpaid Internship?

2) Could the USCIS add to this section that employers can refer to the M-274 Handbook for Employers? It is quite incredible that as an international student advisor I am having to speak to employers, large and small, about the M-274 and how to fill out the I-9.



Comment Submitted by Carla Edwards

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

Instructions for Certification section of Form I-9:

Should note whether or not Form I-9 is required to be certified by a Notary Public

Should note that if the employer chooses to have a Notary act as a Designated Official/Authorized Representative for the employer, the Notary cannot serve as both Notary Public and Designated Official/Authorized Representative for the company.

Comment Period Closed

Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0332

Tracking Number: 1k0-8n76-xt1k

Document Information

Date Posted:

Jan 5, 2016

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Comment Submitted by Sara Wilhite & Team

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0333
Tracking Number: 1k0-8n79-jbpj

Document Information

Date Posted:
Jan 5, 2016

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Comment

1. Can we complete the form online, on paper or both?
2. Under the List C documents for Unrestricted SS card, there is not an option for the Department of Health, Education and Welfare. Please advise if this will be added? Or what option(s) should be chosen?
3. Section 3 - New name, Date of Rehire and Document verification are listed as A, B, and C respectively but it could be clarified better if each were on a separate line since A and B are on the same line.

Overall our team likes the drop down features which will lead to a reduction in errors. We also like the ? mark feature, which gives employees more details about the items needed.

Comment on Proposed Changes to Form I-9

Form I-9, along with Form M-274 “Handbook For Employers: Guidance For Completing Form I-9”, must address a situation when an employment authorization expires and up to reverification for a nonimmigrant who is authorized to work on a specific employer, while such nonimmigrant is in a process of adjusting his/her status to a lawful permanent resident (LPR), specifically as a beneficiary of family-based immigration petition.

Proposed rule:

In Section 3. “Reverification and Rehires” allow to use a Receipt of I-485 application (Notice of Action) as an extension of a previously authorized employment for a period of up to 240 days.

Under “Receipts” add:

- A receipt of your Application to Register Permanent Residence or Adjust Status (Form I-485). You must present the actual Permanent Resident Card (Form I-551), or an unexpired Employment Authorization Document (Form I-766), or a combination of a List B document and an unrestricted Social Security Card within 240 days from the date you submitted Form I-485.

Subject of this rule:

A nonimmigrant who is authorized to work on a specific employer and such work authorization is a direct benefit of his or her employment-authorized nonimmigrant status (H1B, H2B, H3, TN, E1, E2, L1, O1, O2, P1, P2, P3, R1).

When this rule should apply:

Only for reverification of an employee who continues to work for the same employer as previously authorized by his or her nonimmigrant status.

Background:

If a nonimmigrant applies to adjust his or her current status to a lawful permanent resident (LPR) by submitting Form I-485, such nonimmigrant is allowed to remain in the country legally during adjudication of I-485, even if his/her previous nonimmigrant status subsequently expires. Therefore, an action of applying for an adjustment of status to a LPR effectively extends a nonimmigrant status of the applicant.

Concurrently with I-485 application or any time after it is submitted, the applicant is also allowed to apply for an employment authorization, which normally takes around 90-days to be processed by USCIS. In a case of a nonimmigrant who was not previously authorized for employment the new application for employment authorization has a valid ground for consuming USCIS resources, as it has to be reviewed and processed as any other application for employment authorization.

However, there is a significant number of nonimmigrants who are already authorized for employment by their nonimmigrant status (H1B, H2B, H3, TN, E1, E2, L1, O1, O2, P1, P2, P3, R1) and, at the same

time, become eligible to apply for AOS. Additionally, some of these employment-authorized statuses don't allowed for a dual intent. With that, if such nonimmigrant submitted Form I-485, he/she is no longer eligible to extend his/her current nonimmigrant status, even if he/she is intended to remain employed by the same employer and in the same position as before.

The controversy here is that such nonimmigrant does not have to formally apply for extension of his nonimmigrant status, as by action of submitting AOS application he just implicitly did that. And the status that he "extended" must have to be the same status as his nonimmigrant status (either with employment authorization or without). A procedural gap here is that current employment verification process overlooks these situations and does not allow to complete Form I-9 when a nonimmigrant, who continues previously authorized employment, is in AOS process.

These circumstances prompt a significant volume of employment authorization applications filled concurrently with Form I-485, simply to provide continuity of employment.

Summary:

There are several benefits of this proposed rule:

1. By reducing a volume of concurrent employment authorization applications only to necessary cases (such as new employment authorizations for nonimmigrants previously not authorized to work), the proposed rule will freed up USCIS resources and enable them to processed the remaining applications more effectively.
2. Employers will benefit from removing uncertainty of their workforce continuity.
3. AOS applicants will be certain they can retain their present employment until I-485 has been adjudicated. There will be less of financial impact in cases when such applicant has to quit employment during a gap period between expiration of his nonimmigrant employment authorization and granting of a new AOS employment authorization.

There is an existing provision to allow an extension of the above-mentioned nonimmigrant status with the same employer upon filling Form I-129 for a period of up to 240 days (p23 of Form M-274). The proposed rule will be in sprit of this provision by also allowing such nonimmigrants to continue their authorized employment until the application for adjusting their status to LPR is being processed.



Comment Submitted by Anonymous

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

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Tracking Number: 1k0-8n7r-py3u

Document Information

Date Posted:
Jan 5, 2016

[Show More Details](#) 

Comment

The instructions indicate that signing and dating must be completed on a printed copy when using the electronic form. Clarification is needed on whether or not this also applies to I-9 forms built into online onboarding processes.

There is a new part to the preparer/translator section for the employee to indicate if they did NOT use a preparer/translator. Clarification is needed on whether or not the employee is required to indicate that they did not use one - most employees do not use a preparer/translator and most will miss completing the box since they will think the section does not apply to them.

The instructions attempt to clarify the use of receipts, but left more ambiguity when indicating that some receipts expire at different intervals. I believe the intent is to say that some receipts used by aliens should use the actual expiration date instead of the 90-day rule, but that the 90-day rule still applies to most receipts (such as driver's license receipts). Further clarification is needed.



Comment Submitted by Kathy Perry

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#)

Comment

The government is continuing to make the I-9 form more and more completed, however it is not being used to truly find illegal workers but to penalize companies if a box is missed. Pretty soon, only lawyers will be able to accurately complete the more and more complicated forms. The government already has the e-verify system. In a world moving more and more to paperless process, this I-9 process is cumbersome, restrictive and not very effective in penalizing illegal workers but rather penalizing companies who don't hire illegal workers but instead leave off a zip code.

Please consider cutting the bureaucracy and going to E-verify nationwide.

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0336

Tracking Number: 1k0-8n7u-1i7c

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Jan 8, 2016

[Show More Details](#)

PUBLIC SUBMISSION

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Docket: USCIS-2006-0068

Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0337

Comment Submitted by Layla Lazarov

Submitter Information

Name: Layla Lazarov

Address:

220 S. Flower Street
Burbank, CA, 91502

Email: llazarov@centralcasting.com

Phone: 818-562-2700

General Comment

Instead of changing, Other names used to, Other last names used, I think it would be beneficial to read, Other legal names used. This would also include individuals who had a first and last name change.

It would be helpful to state that photo copies of documents are not acceptable. Currently it does read that the document must be genuine and original. However, employees are sometimes confused by that and believe their copy is genuine and original. They also point to the area showing a certified copy of their birth certificate is acceptable and believe that is a photo copy of their birth certificate. I have had many employees ask to be shown where it explicitly states they cannot use a photo copy, and with the misconceptions in their mind it can be tricky to point them in the right direction.

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Docket: USCIS-2006-0068

Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0338

Comment Submitted by Alice Jacobsohn, Senior Manager, Government Relations, American Payroll Association

Submitter Information

Name: Alice Jacobsohn

Address:

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Fax: 210-281-3951

General Comment

Attached are the comments of the American Payroll Association. Thank you.

Attachments

Comment Submitted by Alice Jacobsohn, Senior Manager, Government Relations, American Payroll Association (Attachment)



American Payroll Association

Government Relations • Washington, DC

January 11, 2016

Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Policy and Strategy
Ms. Laura Dawkins
Chief, Regulatory Coordination Division
20 Massachusetts Avenue, NW
Washington, DC 20529-2140
Via Online: www.regulations.gov

Re: Department of Homeland Security, U.S. Citizenship and Immigration Services -- *Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection*, 80 Fed. Reg. 73200 (November 24, 2015); OMB Control Number 1615-0047, Docket ID Number USCIS-2006-0068

Dear Ms. Dawkins:

The American Payroll Association (APA) is pleased to provide your agency with comments on the revised Form I-9 and instructions. We have a joint interest with the USCIS in ensuring that employers and employees properly complete information forms and appreciate the agency's efforts to create an understandable form to verify employment eligibility. We recognize that the USCIS has made significant strides to improve the Form I-9 and instructions, which is not an easy task. Most of our comments relate to wording changes that may help make the Form I-9 and instructions clearer. A few recommendations ask the USCIS to consider other issues.

ABOUT THE AMERICAN PAYROLL ASSOCIATION

Established in 1982, the APA is a nonprofit professional association serving the interests of more than 20,000 payroll professionals and their employers in the United States. The APA's primary mission is to educate members and the payroll industry about the best practices associated with paying America's workers while complying with all applicable federal, state, and local laws. The APA's Government Relations Task Force (GRTF) works with legislative and executive branches at the federal and state levels to assist employers with understanding their legal obligations with significant emphasis on minimizing the administrative burden on government, employers, and individual workers. The GRTF ensures that

APA's members receive the latest information about federal employment verification law changes and that the DHS/USCIS receives meaningful feedback on its programs, regulations, guidance, and forms.

COMMENTS ABOUT THE FORM I-9

General Comments

The revised Form I-9 included in the notice is for the Smart PDF form available from the USCIS. However, there are a few different requirements for an employer using a paper Form I-9. For consistency, the APA recommends that with the exception of the QR Code that the revisions proposed for the Smart PDF form and instructions also apply to the paper and other electronic Forms I-9. For example, in Section 1, except for the other last name used, apartment number, employee's e-mail address, and employee's telephone number fields, the Smart PDF form automatically fills with N/A when a field is not used; N/A also should be used with paper forms. This is different than the current instructions, which say the employee may or must use N/A depending on the field. APA believes that the requirements for use of N/A should be consistent in all formats of Form I-9. We recognize that this will require additional training and may increase the time required to complete for form. However, the benefits of consistency are more important for all stakeholders. We also recommend that a missing N/A be considered a fixable error when identified during an audit.

The APA believes that the differences between the Smart PDF and paper formats are problematic in the instructions and that there should be a single set of instructions applicable to all formats with minimal differences.

When using the Smart PDF, the Quick Response (QR) Code appears to be generated based on Section 1 because it is displayed in both Sections 1 and 2 when only Section 1 is printed. However, the QR Codes in Sections 1 and 2 are different in size, alpha/numeric identifier, and the graphic – see below. APA recommends that the QR Codes be the same size. Standardizing on the smaller QR Code in Section 2 would provide space on the form for several more specific additional information fields.



To use the Smart PDF, Section 1 must be completed and then printed for the employee to sign and, if necessary, the preparer or translator to complete and sign the form. Then, the Smart PDF must be saved

on the employer's computer so it can be opened later to enter Section 2 information. Once Section 2 information is entered, the form must again be printed for signature. Then, the Smart PDF must be saved again if the form is to be used in the future such as for a rehire or reverification. This process creates a burden on the employer because the form must be retained in two locations and formats, hardcopy to retain the form with signatures and softcopy to retain the form electronically for future use. This dual retention requirement also increases the risk that the employee's personal information may be compromised. APA recommends that this process be simplified.

APA recommends that USCIS publish a how-to document on the proper use of the Smart PDF. For example, completing Sections 1 and 2 at different times to account for the 3-day rule and completing Section 3. Because there may be days between the completion of Sections 1 and 2, the employer will be required to save a partially completed Smart PDF until the employee presents documentation for Section 2. In addition, the employer must print the completed Section 2 page, sign it, and attach it to the previously completed Section 1 to make a complete form. A similar situation exists between the completion of Sections 2 and 3. When using the Smart PDF, the employer must be instructed to properly secure and protect the forms, name the forms for easy recall from storage, and structure the storage for timely recall. Backup procedures also should be encouraged.

Comments on Section 1

APA recommends the following changes to Section 1 of the Smart PDF Form I-9:

- Revise the START HERE section to add a semi-colon after the word HERE and change the second sentence from "The instructions must be available during completion of this form" to read, "The employer must ensure the instructions are available to the employee when completing this form." This change is important because employers are liable for errors in completed forms and for consistency with the instructions.
- Under ANTI-DISCRIMINATION NOTICE in the second sentence, change "Employers" to "The employer" and "they will accept from an employee" to "the employee may present" such that the sentence will read, "The employer CANNOT specify which document(s) the employee may present." Please add the words "or continue to hire" after "The refusal to hire" in the third sentence. These changes are important to make the instructions make sense to an employer, ensure that employers and employees know that the employee has options as to which documents they may present, and to allow a hire to occur and for the employee to perform work duties before the employee presents documentation for Section 2.
- A note or the word "optional" is needed to indicate that the employee's e-mail address and telephone number are optional. APA suggests that to make room on the form the boxes for state and ZIP code be dropped to the next line (before the date of birth and Social Security Number boxes) to provide more room for the address, apartment number, and city or town

boxes, and then dropping the boxes for e-mail and telephone number to a new row. In addition, equally splitting the sentence below 4. *An alien authorized to work*, standardizing on the smaller QR Code box as shown above, and moving the QR Code box up on the page should provide the space necessary for this change.

- The spacing between the field description and the data entry fields in the citizenship/immigration status block should be consistent to improve the look of the form. There appear to be extra spaces in the “A lawful permanent resident” and “An alien authorized to work” lines as well as the lines for 1, 2, and 3 under the “Aliens authorized to work . . .” sentence.
- In the sentence “Aliens authorized to work . . .,” consider making the “OR”s bold to match the lines to complete below.
- Change the “Click to Finish” button to read, “Click to Print and Sign Section 1”. This will make the purpose of the button more understandable.
- A field highlighting issue seems to occur when you click the “Click to Finish” button with a blank Section 1 or incomplete Section 1. For example, the fields for foreign passport number, number of preparers and/or translators, and preparer state, should not be highlighted, nor should other optional lines such as the employee’s e-mail address and telephone number. This action of the Smart PDF should be modified so only the appropriate fields are highlighted.

Comments on the Preparer and/or Translator Certification

APA recommends the following changes to the Preparer and/or Translator Certification block:

- Revise the parenthetical sentence to read, “(To be completed and signed if a person other than the employee prepares or assists the employee in completing Section 1.)”
- Add the check boxes for “No Preparer or Translator,” “One Preparer or Translator,” and “Multiple Preparers or Translators” found in the Smart PDF to the paper version. Instructions in the form (Smart PDF and paper) should specify whether one of the boxes must be checked. The parenthetical indicates that this block only applies when a preparer or translator is used; yet, the “No Preparer or Translator” option indicates that at least that box must be checked. APA suggests that the “No Preparer or Translator” option not be required if a preparer or translator is not used.
- Add the text “Section 1” after the word “completion” and before “of this form” in the attestation such that the sentence reads, “I attest, under penalty of perjury, that I have assisted

in the completion of Section 1 of this form and that to the best of my knowledge the information is true and correct.”

- If either the “One Preparer or Translator” or “Multiple Preparers or Translators” boxes are checked, it is not possible to electronically enter the information in the Preparer and/or Translator Certification section, e.g., last name, first name, address. This information must be entered manually after the form is printed. APA suggests that the Smart PDF allow this information to be entered using a computer and that the preparer or translator sign the printed form, consistent with Section 1. APA requests that USCIS provide guidance on how to properly complete Section 1 when the preparer or translator is not physically present with the employee, when the preparer or translator is on the phone or using screen-sharing software.
- The checkboxes for the number of preparers or translators behave as radio buttons rather than checkboxes. If checkboxes are used, then clicking a checked box should uncheck it. If the current behavior is to be retained, then the checkboxes should be changed to radio buttons and the No Preparer or Translator button checked by default.

Comments on Section 2

APA recommends the following changes to Section 2:

- Revise the parenthetical under the header to read, “(You, the employer, or your authorized representative must complete and sign Section 2 within 3 business days of the employee’s first day of employment. In the physical presence of the employee, you must examine one document from List A **OR** a combination of one document from List B **AND** one document from List C. The acceptable documents are listed on the “Lists of Acceptable Documents” found with this form.)”
- In the last box of the Employee Info from Section 1 block, change “Employee Citizenship Status” to “Citizenship/Immigration Status.” This box should be added to the paper version for consistency. Please ensure that the instructions for the paper version do not state to leave this field blank.
- Align the text “Additional Information” onto one line at the top of the box.
- Remove the following text from the Certification attestation: “(State workforce agencies may omit the date the employee began employment.)”. This parenthetical is not an attestation statement, but may be viewed that way by employers. In addition, the provided information is covered in the instructions.
- If USCIS does not have another use for the white space under the List B and C blocks, APA recommends that the space be used for the specific fields of the E-Verify case number, TPS

extension, SC-21, 240-day extension, 180-day extension, 120-day extension, SEVIS number on Form I-20, DS-2019, and other information. This approach simplifies the completion of the form for employers, directs employers where to enter such information, simplifies training, and standardizes the form for government auditors.

Comments on Section 3

Please add the word “the” before “employer” and “the employer’s” before “authorized representative” in the parenthetical after the heading such that the sentence reads, “(To be completed by the employer or the employer’s authorized representative.)”.

COMMENTS ON THE INSTRUCTIONS FOR FORM I-9

General Comments

For consistency, the APA recommends that all of the revisions adopted into the Smart PDF instructions also be made for the paper and electronic Form I-9 instructions.

In some places the instructions use “nonimmigrant,” in other places “non-immigrant.” Please use “nonimmigrant” consistently throughout the instructions.

In some places, after the first use of United States (U.S.), the instructions use “U.S.” and in others use “United States.” Please select either and use it consistently throughout the instructions. If space allows, APA recommends that you use “United States.” Examples include:

- “United States” under *What is the Purpose of this Form?*
- “U.S.” is used in the first paragraph under *General Instructions*.
- “U.S.” is used before “Social Security Number in the *Entering Your Employee Information* section.
- Under *Attesting to Your Citizenship or Immigration Status* in the first four numbered items “United States” is used five times and “U.S.” is used once.

Comments on the Anti-Discrimination Notice

APA recommends the following changes to the *Anti-Discrimination Notice* in the instructions:

- Revise the second sentence to read, “Employers **CANNOT** specify which document(s) the employee may present to establish employment authorization.”

- Revise the third sentence to use “the” instead of “an” before “employer” and “employee” and place a parentheses around the “s” in “documents” such that the sentence will read, “The employer must allow the employee to choose the document(s) to be presented”
- In the fourth sentence, add the text “or continue to employ” after the word “hire” such that the sentence reads, “The refusal to hire or continue to employ an individual because”

Comments on the General Instructions

APA recommends the following changes to the *General Instructions* section:

- In the second paragraph, second sentence, change “Employers” to “The employer” and “employees have” to “the employee has” and add at the end of the sentence, “during the completion of the form.” The sentence in full: “The employer must ensure that the employee has access to every page of these instructions during the completion of the form.”
- In the second paragraph, third sentence, add before the word “form” the words “USCIS PDF.” APA appreciates USCIS including a drop-down list of abbreviations, but the abbreviations are not universal. Employers use a variety of abbreviations on their own as do immigration attorneys and Immigration and Customs Enforcement auditors. APA asks whether USCIS intends that the drop-down list be the only ones allowed on all Forms I-9 – Smart PDF, paper version, or other electronically available forms – and, if so, the revised instructions should make this clear. Employers need to know whether they will be penalized for using terms such as abbreviations other than the USCIS listed ones.
- In the third paragraph, first sentence, add before the words “Form I-9” the words “USCIS PDF.”

Obtaining and Using Forms I-9

APA recommends the following changes to the *Obtaining and Using Forms I-9* section in the instructions:

- In the heading, change the word “Forms” to “Form”.
- This is another place where there is a difference regarding the use of N/A with different Form I-9 formats. Please use consistent requirements.
- APA requests that USCIS clarify if there is or is not a maximum number of three preparers and/or translators that can assist the employee in the completion of Section 1.

Completing Section 1: Employee Information and Attestation

Comments on Entering Your Employee Information

APA recommends the following changes to *Entering Your Employee Information* in the instructions:

- Add a period to the error message in the Smart PDF if “Unknown” is entered in both the first name and last name fields following “Last Name Fields.”
- Under “Address (Street Name and Number),” add “in the United States” at the end of the first sentence.
- In the City or Town instructions, make the sentence “If your residence does not have a physical address, enter a description of the location of your residence, such as “3 miles southwest of Anytown post office near water tower” the last sentence. This is consistent with the Address (Street Name and Number instructions) that applies to the United States, Canada, and Mexico.
- Under U.S. Social Security Number, USCIS makes reference to “E-Verify” for the first time. There should be a registered trade mark (®) added.
- Under “U.S. Social Security Number,” APA recommends a clarification to the instructions. In the Social Security Administration’s publication, *Social Security Numbers for Noncitizens*, the agency states, “We recommend you wait 10 days after arriving in the United States to apply for a Social Security number to make it easier for us to verify your DHS documents online, which will speed processing of your Social Security number application.” Therefore, it is possible that an alien may be hired by an employer in the United States before the alien has applied for a Social Security number. APA recommends that the second option be changed to add, “or will after the SSA’s recommended 10 day waiting period to apply for” after “You have applied for” and then following the rest of the instructions for using “Applied for – In Process.” USCIS also could add a third option, “You are waiting on the SSA to apply for a Social Security number in accordance with SSA instructions, leave this field blank. Once you print the form, write “Waiting on SSA” in this space, then sign and date Section 1.”

Comments on Attesting to Your Citizenship or Immigration Status

APA recommends the following changes to *Attesting to Your Citizenship or Immigration Status* in the instructions:

- The numbered lists under “Alien Registration Number/USCIS Number”, Form I-94 Admission Number, and Foreign Passport Number are redundant. APA recommends that this section be reformatted to place the numbered list above Alien Registration Number/USCIS Number and note that the list applies to all three numbers to avoid confusion and simplify the instructions.

- The minor and special placement exceptions do not apply if the employer participates in E-Verify. An employee who would normally qualify for these exceptions must present a List A or List B document along with a List C document to complete Form I-9 when the employer participates in E-Verify. APA recommends that the instructions note that these exceptions do not apply when the employer participates in E-Verify.

Comments on Completing the Preparer and/or Translator Certification

APA recommends the following changes to *Completing the Preparer and/or Translator Certification* in the instructions:

- In option (3), the second sentence, add “USCIS PDF” before the word “form.”
- In option (3), the fourth sentence, specify that “separate Form I-9” at the end of the sentence applies to the paper form and add, “a separate page that will automatically be created by the USCIS PDF of Form I-9.”
- In the paragraph title, Signature of Preparer or Translator, USCIS states that a preparer or translator who fails to sign his/her name may be subject to criminal prosecution. APA assumes the intent is to know who was involved in completing the form and to prevent falsifying documents. However, fraud can occur against a preparer or translator if someone else enters his/her information in the name/address block and then the signature is left out. The language in the instructions implies that this preparer/translator has committed a crime even though he/she was not involved with the form.

Comments on Presenting Form I-9 Documents

APA recommends the following changes to *Presenting Form I-9 Documents* in the instructions:

- In the second paragraph, fourth sentence, replace the word “show” with “establish” and in the example replace “the” before “foreign” with “a”. In that same example, replace “incident to such” at the end of the sentence to “because of the alien’s”. The segment should read, – “for example, a foreign passport together with a Form I-94 containing an endorsement of the nonimmigrant status and employment authorization with a specific employer because of the alien’s status.”
- In the second paragraph, fifth sentence, replace the word “show” with “establish”. This occurs twice in this sentence.
- In the second paragraph, change the third and second-to-last sentences to the following, “If you present a List A document, you should not be asked to also present a List B and/or a List C

document. If you present both a List B and a List C document, you should not also be asked to present a List A document.”

- In the fifth paragraph above **Receipts**, add “Unless the employer participates in E-Verify,” at the beginning of the sentence before “Minors (individuals under age 18) and certain”

Completing Section 2: Employer or Authorized Representative Review and Verification

APA recommends the following change. In the first paragraph, last sentence, after “as necessary”, replace the rest of the sentence with an added comma and then the text, “by drawing a line through the incorrect information, entering the correct information, and then initialing and dating any corrections made.” Then add another sentence to the end of the sentence, “Do not use correction fluid to conceal any incorrect information or changes made to the form.”

Comments on Entering Employee Information from Section 1

APA recommends the following changes to *Entering Employee Information from Section 1* in the instructions:

- In the first paragraph, first sentence, remove the word “and” after “name”, add a comma and then the word, “and citizenship or immigration status.”
- In the first paragraph, last sentence, after “name”, add the words, “and citizenship or immigration status.”
- In the second paragraph, different instructions are provided for the paper version of the form. APA recommends that this be changed to allow the same instructions to be used for both the Smart and paper forms. This will allow employers that use multiple formats for completing Forms I-9 to have consistent training programs regardless of the format used.

Comments on Entering Documents the Employee Presents

APA recommends the following changes to *Entering Documents the Employee Presents* in the instructions:

- In the first paragraph first sentence, revise the text to read, “You, the employer, or your authorized representative” Also make lower case the word “Document” in the second sentence.
- In the third paragraph regarding List A documents, please change the word “show” to “establish.”

- In the fourth paragraph, first sentence regarding List B and List C documents, please change the word “show” to “establish.” In the second sentence add the word “a” before “List B”, after “List B” add “document and/or a”, and add the word “document” after “List C”.
- In the fifth paragraph, first sentence, replace the words “cross out” with “draw a line through.” In this way, corrections will be more visible.
- In the sixth paragraph, APA recommends that USCIS remove the parenthetical, add a comma and the words, “which is” after the word “individual”.
- In the ninth paragraph, at the end of the first sentence, add a comma after “List C” and then add, “unless you participate in E-Verify. If you participate in E-Verify, the employee also must present a List B document with a photograph when presenting a List C document.”

Comments on the Document Title Tables

APA recommends the following changes to the tables for Lists A, B, and C in the instructions:

- Clarify whether USCIS is requiring the use of the abbreviations in the “What to Enter on Form” column or that these are suggestions that fit into the space provided on Form I-9. As noted earlier in these comments, there is no consistency in abbreviations; there also is no consistency in short forms of titles in documents. On one hand, consistency can be helpful in ensuring that anyone viewing these forms understands the information presented. On the other hand, requiring employees, employers, employer representatives, preparers, and translators to use the same terms can be problematic, particularly when different formats – Smart PDF, paper, and electronic versions – are in use and the documents being presented were created by different agencies or organizations (military, foreign governments) that often have their own system of terminology. Regardless, USCIS should be clear on what is required and acceptable on Form I-9.
- On page 6 of the publication, *Handbook for Employers* (M-274) Rev. 04/30/2013 N, USCIS states, “You may use common abbreviations to document the document title or issuing authority, e.g. DL for driver’s license and SSA for Social Security Administration.” USCIS is unclear on whether these instructions replace some aspects of the handbook even though referenced under “List B – Identity,” whether USCIS plans to update the handbook, and whether terms and abbreviations used previously will still be acceptable.
- Some inconsistencies and redundancies exist in the title tables. For example, the word “Receipt” is sometimes followed by a colon, but not always. USCIS should use the colon each time. In addition, if the word “receipt” will be crossed out on the form, the term “Receipt: Replacement” is unnecessary.

Comments on List B – Identity

In the second-to-last sentence, add a comma after “field” followed by the words, “unless the employer uses E-Verify. If the employer uses E-Verify, the employee must present a List B document with a photograph when presenting a List C document.”

Entering Information in the Employer Certification

APA recommends that USCIS revise the text to read, “If your company has multiple locations, use the most appropriate address that identifies the location hiring the employee.”

Comments on Last Name information

In the last sentence of the Last Name (Family Name) paragraph, APA recommends replacing “last name field” with “this field.” to be consistent with other instructions.

Completing Section 3: Reverification and Rehires

Comments for Rehires

Replace the first sentence with, “If you rehire an employee within three years from the date that a previous Form I-9 was completed, you may either rely on the employee’s previously completed Form I-9 or complete a new Form I-9. Employers must use E-Verify for rehired employees. However, E-Verify has special rules for rehired employees. Refer to the *E-Verify User Manual (M-775)* for more information regarding rehires and E-Verify.”

USCIS Forms and Information

Please capitalize the first letter of the word “internet” in the first sentence of the fourth paragraph.

Paperwork Reduction Act

The estimated time to complete Form I-9 expiring 3/31/2016 is 35 minutes. The estimated time to manually complete the proposed Form I-9 is 35 minutes and 26 minutes when using a computer. All times include reviewing instructions and completing and retaining the form. There are 6 pages of instructions for Form I-9 expiring 3/31/2016 and 15 pages of proposed instructions. APA believes that USCIS has miscalculated the time it will take for an individual to manually complete the proposed Form I-9 in the same amount of time as the current form when the instructions for the proposed form are more than twice as long. This comment is included here to ensure that USCIS is accurate in its compliance with the Paperwork Reduction Act.

Thank you again for the opportunity to comment on the proposed Smart PDF Form I-9 and instructions. If you have any questions, please contact Alice Jacobsohn at 202-248-3901 or ajacobsohn@americanpayroll.org.

Sincerely,

David C. Fowler
President, Worksite Compliance Services, LLC
Chair, APA Immigration Subcommittee

A handwritten signature in cursive script that reads "Alice P. Jacobsohn".

Alice P. Jacobsohn, Esq.
Senior Manager, Government Relations
American Payroll Association

PUBLIC SUBMISSION

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Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0339

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

Address: United States,

Email: kelly_mhs@yahoo.com

General Comment

In response to Layla Lazarov's comment: Unless they explicitly exempt transgender people in the instructions, the field is designated as optional, or they designate the field as required only when practically necessary (i.e. when the employee presents documentation under the former name or has not updated their Social Security record to reflect their current name) your idea is a bad one. I know that a lot of respondents to the I-9 proposal may have not dealt with a case where the employee has a bona fide reason not to disclose a former name, but for employees who have had a gender change it is a major issue (especially since the employer must keep the forms on file for the duration of employment plus a certain amount of time afterwards) - and since many government agencies are finding ways to be considerate of the transgender population reverting the forms to require them to provide their first name from before changing gender is a major step backwards.

PUBLIC SUBMISSION

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Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0340

Comment Submitted by Erik Snyder

Submitter Information

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Phone: 5863236600

General Comment

Please allow the law to catch up with the technology. Videoconferencing and electronic signatures have proven to be reliable, and it would be great if the I9 could be filled out and signed electronically, with IDs confirmed via videoconference. In 2016 there is no reason why this cannot be done.

PUBLIC SUBMISSION

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Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0341

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

General Comment

A common error we see on I-9's is in the birthday field. People tend to write the date they complete the form rather than their birthday. Something to prevent that from happening would be beneficial.

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Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0342

Comment Submitted by Elizabeth Beggs

Submitter Information

Name: Elizabeth Beggs

General Comment

I completely support the following changes/additions, as they will improve compliance with my organization:

- Checking certain fields to ensure information is entered correctly
- Drop-down lists and calendars
- Requiring employees to provide only other last names used in Section 1, rather than all other names used

I would also like to see increased acceptance for digitally provided documentation--Skypeing with a remote hire and viewing their passport, for example.

PUBLIC SUBMISSION

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--

Docket: USCIS-2006-0068

Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0343

Comment Submitted by Laura Klock

Submitter Information

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#850

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Email: lklock@kahumalama.com

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General Comment

Please change the format for entering dates to only numeric. Using the drop down menu or having to enter alpha for the month is not efficient data entry.

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Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0344

Comment Submitted by Anonymous

Submitter Information

Name: anonymous anonymous

General Comment

There should be more guidance for J1 & F1 visa holders on how to complete section 1. The current form does not take into account that for these holders an I-94 for J1 & F1 are acceptable, but the expiration date should be derived from the DS2019 or I-20 for CPT or EAD card for OPT.

Maybe even add further details to F1 OPT holders about where they can the details from their EAD card.

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Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0345

Comment Submitted by Anonymous

Submitter Information

Name: anonymous anonymous

General Comment

It would be helpful to add a check mark to Section 1 "Applied for" for Social Security Number. This option would be helpful for companies that do participate in E-Verify but have newly foreign hires or International Transfers that do not yet contained Social Security Number. At this moment some confusion arises with individuals who believe that should not complete an I-9 form until they have a Social Security Number.

Having this option would be a tremendous help.

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Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0346

Comment Submitted by Anonymous

Submitter Information

Name: Anonymous Anonymous

General Comment

In the other names used field, is it possible to make the slash between N/A automatic if someone enters NA in that field? Na could be a last name and we always make sure that the slash is between the N and A, and this is one of the most common corrections we have to make.

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Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Comment On: USCIS-2006-0068-0246

Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection

Document: USCIS-2006-0068-0347

Comment Submitted by Laurie Ratliff

Submitter Information

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Phone: 817-334-4161

Fax: 817-334-4293

General Comment

We have a lot of Permanent Residents and Alien's Authorized to work and on their I-9 page they routinely get confused as to what goes where . Drawing lines around the citizenship status choices would help or maybe even highlighting part of.

See attachment, Thanks,

Attachments

Comment Submitted by Laurie Ratliff



Employment Eligibility Verification

Department of Homeland Security
U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No. 1615-0047
Expires 03/31/2016

▶ START HERE. Read instructions carefully before completing this form. The instructions must be available during completion of this form.
ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Attestation (Employees must complete and sign Section 1 of Form I-9 no later than the **first day of employment**, but not before accepting a job offer.)

Last Name (Family Name)		First Name (Given Name)		Middle Initial	Other Names Used (if any)		
Address (Street Number and Name)			Apt. Number	City or Town		State	Zip Code
Date of Birth (mm/dd/yyyy)	U.S. Social Security Number		E-mail Address			Telephone Number	

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):

A citizen of the United States

A noncitizen national of the United States (See instructions)

A lawful permanent resident (Alien Registration Number/USCIS Number): _____

An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) _____. Some aliens may write "N/A" in this field. (See instructions)

For aliens authorized to work, provide your Alien Registration Number/USCIS Number **OR** Form I-94 Admission Number:

1. Alien Registration Number/USCIS Number: _____

OR

2. Form I-94 Admission Number: _____

If you obtained your admission number from CBP in connection with your arrival in the United States, include the following:

Foreign Passport Number: _____

Country of Issuance: _____

Some aliens may write "N/A" on the Foreign Passport Number and Country of Issuance fields. (See instructions)

3-D Barcode
Do Not Write in This Space

Signature of Employee:	↑	Date (mm/dd/yyyy):
Preparer and/or Translator (employee.)	<p>Boxing in the Citizenship Status boxes would eliminate confusion between "Permanent Resident" & "Alien Authorized to work" fields.</p>	I am prepared by a person other than the
I attest, under penalty of perjury, that the information is true and correct.		and that to the best of my knowledge the
Signature of Preparer or Translator		Date (mm/dd/yyyy):
Last Name (Family Name)		(Given Name)
Address (Street Number and Name)	State	Zip Code



**PRINTING
INDUSTRIES
OF AMERICA**

| *Advancing Graphic Communications*

January 15, 2016

Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Policy and Strategy
Ms. Laura Dawkins
Chief, Regulatory Coordination Division
20 Massachusetts Avenue, NW
Washington, DC 20529-2140

Via Online: www.regulations.gov

Re: Department of Homeland Security, U.S. Citizenship and Immigration Services -- Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection, 80 Fed. Reg. 73200 (November 24, 2015); **OMB Control Number 1615-0047**, Docket ID Number USCIS-2006-0068

Dear Ms. Dawkins:

The comments below regarding the proposed updates to Form I-9 are being submitted on behalf of Printing Industries of America.

Printing Industries of America is the world's largest graphic arts trade association, representing an industry with approximately one million employees. It serves the interests of more than 6,000 member companies.

1. In Section 1, note in the text of the Form I-9 document (not just the pop-up) that the employee's email and telephone number are "*optional*."
2. In Section 2, lists B and C, Native American Tribal Document can be selected for Lists B and C at the same time. Since this is prohibited, you should program the document to prevent duplicate (or near duplicate) information from being entered. Other similar rules should be considered for your programming.
3. Beginning January 22, 2018, for driver's licenses and IDs issued by federal, state or local government agencies, DHS/USCIS should require that only those documents that comply with the REAL ID Act may be used for Form I-9 purposes. Many state DMVs that are not in compliance with the REAL ID Act still have serious problems with fraudulent applications (e.g., Virginia, see <https://www.washingtonpost.com/local/crime/a-scheme-to-get-drivers-licenses-and-ids-for-illegal-immigrants-hatched-in-the-va->

Printing Industries of America and Its Affiliates—Your National and Local Resource

301 Brush Creek Road | Warrendale, PA 15086-7529 | phone: 412-741-6860 | fax: 412-259-2016 | www.printing.org

- [dmv/2013/11/06/1a0eeaec-4639-11e3-b6f8-3782ff6cb769_story.html](http://www.dmv.gov/2013/11/06/1a0eeaec-4639-11e3-b6f8-3782ff6cb769_story.html)) and many local governments issue IDs to known individuals who are undocumented (e.g., Hartford, CT, see <http://www.courant.com/community/hartford/hc-hartford-municipal-ids-0424-20150423-story.html>). The 2018 date will be consistent with DHS/TSA rules, see <http://www.dhs.gov/real-id-and-you-rumor-control>.
4. In addition, driver's licenses or IDs that are specifically marked indicating that they may not be used for federal purposes should be specifically mentioned in the Instructions for Employers, Employer Handbook, and noted in the popup on Form I-9 that they may not be used for Form I-9 purposes. (E.g., District of Columbia, see http://wamu.org/news/14/05/01/dc_starts_issuing_drivers_licenses_to_undocumented_residents and California, see <http://www.dmv.org/ca-california/ab-60-drivers-license.php>)
 5. In List B, under 1 and 2, remove the text "or information such as" and replace with a comma (",").

Thank you for the opportunity to comment on the proposed changes to Form I-9.
We look forward to the final standard.

Sincerely,

//s//

Jim Kyger
Asst. VP of HR



Comment Submitted by Anonymous

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

In response to Anonymous about date errors: Perhaps on the electronic version a feature that would flag an invalid date of birth (i.e. a child who would be too young to legally work with that DOB, including cases where that day's date was entered by mistake) could be put in.

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0349

Tracking Number: 1k0-8neg-xyh9

Document Information

Date Posted:
Jan 15, 2016

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Comment Submitted by Barbara Snyder

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

How does the employer handle the refugees from the Middle East that have no documentation and are applying for an employment position?

Is there a criteria for verifying documentation from illegals and refugees that enter our country that have been falsely reproduced? How do we tell the difference from the legal documentation or reproduced Driver License, Social Security Card, Birth Certificate or Passport?

How does the employer process a background check when we do not know if that person may be a terrorist in disguise?

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0350

Tracking Number: 1k0-8neh-7bhr

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Date Posted:
Jan 15, 2016

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Submitter Information

Submitter's Representative:
Barbara S. Snyder



Comment Submitted by Amy Knight

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

I'd like to recommend that the employee name field on the 2nd page of the I-9 be in bold or some other similarly striking feature as it is a section of the form that is frequently overlooked. Perhaps this particular fill-in field could be moved further down on the form where the employer completes the verification instead? That might help to insure that it is not missed.

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0351

Tracking Number: 1k0-8neh-qd95

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Jan 15, 2016

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Comment Submitted by M Siebert

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0352

Tracking Number: 1k0-8nfv-2q9z

Document Information

Date Posted:
Jan 19, 2016

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Comment

USCIS should be forced to track stolen social security numbers and fake 1-9 forms when working with those people applying for DACA or any other Obama Amnesty Executive Order. Currently USCIS is allowing DACA kids who used fake papers to avoid any penalty indeed USCIS is actually helping the employers of illegal immigrants by giving those employers new documents to replace the fraudulent ones. Again with no fine, penalty or tracking.

USCIS switched the procedure to require DACA kids to give their fake social security numbers because they knew that if they did that there were so few kids who hadn't committed ID theft that the program would have been very limited in the number of people it could grant papers too. A political decision was made that if the public knew how many DACA kids had committed ID theft or worked with fake papers that the Obama administration would have more unhappy citizens than just a Republican congress. So a decision was made to ignore law breaking and grant amnesty.

This allows the illegal to benefit from fraud with no punishment. It allows a business who exploited an illegal and did not hire an American citizen to avoid prosecution or penalty. Third and most importantly by not tracking these documents the USCIS is perpetuating the document fraud for future waves of illegals. By allowing the fake papers to remain out in circulation.

USCIS has under the Obama Administration become a protector of foreign nationals more than a protector of the United States citizenry.



Comment Submitted by Heather Hankins

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

I like the new format for electronic filing out. The one change I would like to see is break out the date of birth drop down. Month then day then year. Not many people are computer savvy enough to click and find the format you have now. I could see someone scrolling through the years to get back to their date of birth.

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0353

Tracking Number: 1k0-8nh0-88to

Document Information

Date Posted:
Jan 19, 2016

[Show More Details](#) 



Comment Submitted by Anonymous

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0354

Tracking Number: 1k0-8nhs-z5e1

Document Information

Date Posted:
Jan 20, 2016

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Comment

I am a SHRM member working as an HR assistant in the banking industry, so I handle I-9s frequently. My concern/suggestion is connected to the proposal of longer, more detailed instructions for the I-9.

Separating the employee and employer instructions into two separate packets and only requiring the employee instructions be printed and given to the employee with the form would GREATLY reduce the amount of paper wasted and increase the likelihood of employees actually reading the instructions. In working with new hires my observation has been that the longer the document is the less likely they are to actually attempt to read it. If we present employees with 15 pages of instructions on filling out their one page of the I-9 the vast majority of them will promptly ignore the entire packet and just "wing it" on the form.

Employers, on the other hand, have the time and motivation to read detailed instructions. Send us all the detail you want, we'll highlight it, laminate it, commit it to memory, but please don't make us print it out for every new employee. They're overwhelmed enough with the number of forms and packets they get as is!



Comment Submitted by N Billings

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0355

Tracking Number: 1k0-8nhu-e34v

Document Information

Date Posted:
Jan 20, 2016

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Comment

Thank you for the opportunity to review and comment on the form. I believe the revisions are a good step in the right direction. A few comments on the form's format:

- 1) Tab function: If a user completes a field and then uses the Tab key, the cursor first tabs to the help text icon, then after hitting Tab a second time the user gets to the next field. People who Tab are used to entering information quickly and would expect the cursor to move directly to the next field rather than having to hit Tab twice between each field to navigate around the help text.
- 2) Calendars: The drop-down calendars in the Date of Birth and Expiration Date fields don't seem to add value. It is doubtful a user will access a calendar to enter a known date like date of birth (I was born in the 70's and it took a minimum of 8 clicks within the calendar to get to my birthday) and for Expiration Dates the employer will be entering the date directly from the document being examined.
- 3) Preparer Certification: This additional step was confusing and I believe unnecessary. The header in the gray box says "To be completed and signed if Section 1 is prepared by a person other than the employee." A user would normally stop reading at that point and move to the next section yet the employee filling out his own form has to continue reading and still check a box within that header saying he completed his own form. The majority of people complete their own form so it does not seem appropriate to have everyone click "No Preparer or Translator." The assumption, as was the case with the old forms, is that the employee is filling out the form. The exception would be if the Preparer/Translator completed it, therefore the section applies only to the few who need it. If there is a legal reason to have everyone fill out that portion, it would be helpful for the language in

parentheses to appear AFTER the checkboxes.

A few comments/questions on the form process:

1) Section 2 has dependencies on Section 1 being completed. The implied process is for an employee to sit at a computer and fill out the first page, then get up so the employer can sit at the same computer to complete the second page. Then the document must be printed and signed. Is this the intended process of USCIS? In order to get the full advantage of the form, both the employee and employer portions must be completed in a "single sitting." This eliminates the possibility of the employee being able to fill out Section 1 ahead of time and now must do it at a time when the employer can immediately complete Section 2. Therefore when we have groups of new hires starting on a day, we must either a) have a single computer available in the room where the process is done for each individual (greatly increasing the time spent on the I-9 process for the group) or b) have a room with several computers for each individual to complete the form at the same time.

2) It would streamline the employment eligibility verification process if you could integrate this I-9 form with E-Verify.



Comment Submitted by Rebecca Klenke

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

Add box/field to input Employee Termination Date.

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

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Tracking Number: 1k0-8nh7-uay2

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Date Posted:
Jan 20, 2016

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Practice Limited to Federal Immigration Law



January 21, 2016

Laura Dawkins - Chief, Regulatory Coordination Division
U.S. Citizenship and Immigration Services
Office of Policy and Strategy
Department of Homeland Security
20 Massachusetts Avenue, NW
Washington, DC 20529

Re: Department of Homeland Security: Docket No. USCIS-2006-0068 (OMB No. 1615-0047)

Dear Ms. Dawkins:

The following comments are submitted on behalf of the American Staffing Association (“ASA”) in response to the 60-Day notice of Revision of a Currently Approved Collection, published by U.S. Citizenship and Immigration Services (“USCIS”) in the *Federal Register* on November 24, 2015 and titled “Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection.”

ASA is the voice of the U.S. staffing industry. Along with its affiliated chapters, ASA promotes the interests of the industry through legal and legislative advocacy, public relations, education, and the establishment of high standards of ethical conduct. ASA has been promoting flexible employment opportunities since its founding in 1966. ASA members provide a wide range of employment-related services and solutions, including temporary and contract staffing, recruiting and permanent placement, outsourcing, training, and human resource consulting.

ASA is uniquely situated to evaluate the impact of the proposed revisions to the Form I-9 on the staffing industry, which has grown significantly over the last few decades because it offers flexible employment opportunities. During the course of a year, staffing companies complete more than 14 million Forms I-9 for temporary and contract employees. As a result, any substantive change to the employment eligibility verification process has the potential to have a significant impact on the staffing industry.

The two-sentence explanation provided by USCIS for the proposed revisions states that USCIS seeks to “mitigate or prevent employer and employee error in completing the form.” However, as outlined below, several proposed changes introduce ambiguity and contradict this goal. Thus, ASA submits the following comments to highlight several of these ambiguities, propose revisions, and clarify that staffing firms may continue to complete the Form I-9 at the time a candidate for temporary assignments consents to be included in the staffing firm’s roster of employees, irrespective of the time the individual actually begins work.

PROPOSED REVISED FORM I-9 INSTRUCTIONS

- **The Instructions Should Clarify that Staffing Firms Can Complete the Section 2 Employer Certification upon a Candidate's Acceptance of Employment and Entry into an Assignment Pool.**

The proposed revised Form I-9 instructions are substantially longer than the current instructions. Yet, despite adding nine pages, the proposed revised instructions contain a critical omission—they do not contain the current instructions' explicit clarification that staffing firms may complete the Form I-9 at the time a candidate consents to be included in the staffing firm's roster of temporary employees, irrespective of the time the individual actually begins work on assignment. Any final revised instructions should include such clarification.

Section 274A of the Immigration and Nationality Act prohibits the knowing employment of unauthorized aliens and the hiring of individuals without first verifying their employment authorization and identity. *See* INA § 274A, *codified as amended at* 8 U.S.C. § 1324A.

Since the enactment of this statutory provision, the Immigration and Naturalization Service ("INS") recognized that an employer may complete Form I-9 at any point between the first acceptance of an offer of employment and the time work actually commences. Indeed, in regulations promulgated under this statute, INS stated:

The Service in its proposed rules defined "hire" as the "actual commencement of employment of an employee . . ." This aroused public concern as to the appropriate time for completion of the verification process. . . . **INS realizes that employers with decentralized operations may actually hire an individual well in advance of the time that the employee commences work. . . . [T]he Service wishes to stress that verification may be completed either at the time of an individual's acceptance of an offer of employment or at the time employment actually commences.**

Control of Employment of Aliens, 52 Fed. Reg. 16,216, 16,218 (May 1, 1987) (emphasis added) (first alteration in original).

USCIS continues to recognize this rule. For example, the current version of USCIS' *Handbook for Employers* states:

- Q. If someone accepts a job with my company but will not start work for a month, can I complete Form I-9 when the employee accepts the job?
- A. Yes. The law requires that you complete Form I-9 only when the person actually begins working for pay. However, **you may complete the form earlier, as long as the person has been offered and has accepted the job.** You may not use the Form I-9 process to screen job applicants.

U.S. Citizenship & Immigr. Servs., *Handbook for Employers: Instructions for Completing Form I-9 (Employment Eligibility Verification Form)* 41 (Apr. 30, 2013 rev.) [hereinafter *M-274 Handbook for Employers*] (emphasis added).

On its webpage entitled, *How to Complete Form I-9*, USCIS further confirms:

In the case of a staffing agency, ***acceptance of an offer and entry into the assignment pool can be considered equivalent to an offer and acceptance of employment, after which Form I-9 may be completed. The agency does not need to delay the verification until the worker actually has accepted a particular assignment.*** The date the staffing agency should put in Section 2 “Certification” of Form I-9 ***is the date of acceptance of an offer and entry into the assignment pool.***

U.S. Citizenship & Immigr. Servs., “How to Complete Form I-9,” <http://www.uscis.gov/i-9-central/i-9-central-questions-answers/how-complete-form-i-9> (emphasis added).

Moreover, USCIS states:

Staffing agencies should not leave the Certification Date or Hire Date field blank. ***When completing Section 2 of Form I-9, staffing agencies may choose to use either the date a new employee is assigned to his or her first job or the date a new employee accepts an offer and is entered into the assignment pool as the first day of employment.*** USCIS recommends that staffing agencies remain consistent with regard to the date it chooses to use as the first day of employment when completing Forms I-9 and E-Verify cases.

U.S. Citizenship & Immigr. Servs., “E-Verify Questions and Answers,” <https://www.uscis.gov/e-verify/questions-and-answers/faq/staffing-agencies-may-complete-form-i-9-once-employee-accepts-offer-and-assignment-pool-acceptance-date-used-hire-date-form-i-9-and-e-verify-can-certification-date-be-left-blank-until-they-are-placed> (emphasis added).¹

Conformance of any revised instructions with the foregoing represents sound public policy and recognition of the unique operational aspects of the staffing industry. As a general matter, once a qualified worker is identified and screened, a staffing firm will include that worker in its assignment “pool” for future temporary assignments. Depending on the demand for that worker’s skill set, there is usually a delay between the time a worker accepts an offer and the time that worker is placed on a temporary assignment at a client site. Therefore, like the current Form I-9 instructions, any revised instructions should, for the avoidance of ambiguity, clarify

¹ See also <https://www.uscis.gov/e-verify/questions-and-answers/faq/can-temporary-staffing-agency-create-case-e-verify-employee-placing-employee-assignment> (“Acceptance of an offer and entry into the assignment pool could be considered equivalent to an offer and acceptance of employment. As any E-Verify employer can, a staffing agency may create a case in E-Verify once the Form I-9 is completed.”).

that staffing firms can complete the Form I-9 when a temporary employee consents to be placed in a roster of candidates.

In that regard, revised instructions should mirror the current instructions and read as follows:

Employee's First Day of Employment: Enter the employee's first day of employment as a 2-digit month, 2-digit day and 4-digit year (mm/dd/yyyy). **Temporary staffing agencies may enter the first day the employee was placed in a job pool.** Recruiters and referrers for a fee do not enter the employee's first day of employment.

(proposed addition bolded and underlined)

Alternatively, if the foregoing is not included in the instructions themselves, USCIS should, in explanatory comments to final published instructions, explicitly state that staffing companies may enter the first day the employee was placed in a job pool in Section 2 of the Form I-9.

- **The Instructions Should Not Prescribe the Exact Document Titles to be Entered in Section 2 of the Form I-9.**

The proposed revised instructions also prescribe how each List A, List B, and List C document title should be entered in Section 2 of the Form I-9. *See* Proposed Revised Form I-9 Instructions at 8-11.

While ASA commends USCIS for attempting to provide clarification on completing the Form I-9, this proposed revision is cumbersome and injects needless complexity into the form instructions with little added benefit. USCIS has routinely afforded employers with the flexibility to adopt common-sense abbreviations for document titles. *See, e.g., M-274 Handbook for Employers* at 6 ("You may use common abbreviations to document the document title or issuing authority, e.g., DL for driver's license and SSA for Social Security Administration."). USCIS has not indicated that this has been a problem, nor has it provided any justification for deviating from this established practice.

Moreover, the proposed document titles provide no discernible benefits in identifying the document(s) examined by an employer. For many documents, there is no appreciable difference between the full document title and what the proposed revised instructions state to enter on the form. For example, the proposed instructions say to enter "Driver's license issued by state/territory" on the form for "Driver's license issued by a State or outlying possession of the United States." *See* Proposed Revised Form I-9 Instructions at 9. This provides no additional clarity as to the document examined than the "DL" currently endorsed by the M-274 Handbook for Employers.

Requiring document titles to be entered a specific way poses an unnecessary trap for the well-meaning employer and only serves to value form over substance. If USCIS seeks to provide employers with comfort that what they are entering as a document title in Section 2 is acceptable, such guidance would more appropriately be included as *suggestions* in USCIS' M-274 Handbook for Employers or on USCIS' Form I-9 Central website, rather than *requirements* dictated by the form instructions.

PROPOSED REVISIONS TO FORM I-9

- **The Section 1 Preparer/Translator Certification Should Not Be Revised.**

The Section 1 Preparer/Translator Certification on the proposed revised Form I-9 contains three check boxes from which an employee must choose: "No Preparer or Translator," "One Preparer or Translator," and "Multiple Preparers or Translators." Proposed Revised Form I-9 at 1.

USCIS has not provided an explanation for requiring—for the first time—an affirmative statement from the employee that no preparer or translator assisted in the completion of the form. As a result, ASA does not know why USCIS seeks to make this revision. Regardless, ASA opposes imposing any additional burdens on employees when completing the Form I-9 especially since **this additional field is located after the employee signature block in Section 1, increasing the likelihood that it will be overlooked by the employee.**

If USCIS requires employees to affirmatively state that there was no preparer or translator, USCIS and Immigration and Customs Enforcement ("ICE") should issue joint guidance confirming that the failure to check this box constitutes a technical, not substantive, violation. Given the volume of Forms I-9 completed by staffing employers, as well as the significant likelihood that this box will be overlooked by employees, classifying a failure to complete this new field as a substantive violation would improperly expose employers, including those in the staffing industry, to significant potential fines.

- **The Section 2 Employee Citizenship Status Field Should Be Removed.**

Section 2 of the proposed revised form begins with a block for "Employee Info from Section 1." Proposed Form I-9 at 2. In addition to the employee's first and last names, the proposed revised form contains a new block for "Employee Citizenship Status." *Id.* The proposed revised instructions state that, if completing the Form I-9 obtained from the USCIS website using a computer, employers should "enter the number that correlates with the citizenship or immigration status box the employee selected in Section 1." Proposed Revised Form I-9 Instructions at 7. However, the proposed revised instructions state that "[i]f you complete a paper Form I-9, leave this field blank." *Id.*

USCIS should remove the "Employee Citizenship Status" field that was added to the top of Section 2. This new field serves no discernible purpose and will only confuse employers, as

they likely will write out the status since it is not obvious that a number should be entered into this field. Moreover, creating a distinction between paper Forms I-9 and Forms I-9 obtained from the USCIS website and completed with a computer will only add unneeded confusion to the employment verification process.

GRACE PERIOD FOR ANY REVISIONS

Finally, USCIS should provide a grace period of at least 120 days before requiring the use of any revised Form I-9. This will provide time for companies to train their personnel who complete Forms I-9 on how to properly complete the new form. Additionally, many staffing companies use software from private vendors to prepare electronic Forms I-9. These private vendors will need sufficient lead time to develop/troubleshoot software updates based on the revised form and to provide those updates to their clients.

ASA supports USCIS' effort to provide employers with additional clarification and guidance for navigating the Form I-9 employment eligibility verification process. ASA requests that the agency incorporate the changes outlined above in order to accomplish these goals.

Sincerely,



Helen L. Konrad

HLK/2567634

cc: Stephen Dwyer, General Counsel, American Staffing Association



Comment Submitted by Yu- Ting Chiu

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

Page 3 of the instruction states "Alien Authorized to work must enter one of the following to complete Section1: 1. Alien Registration Number (A-Number)/ USCIS Number; or 2. Form I-94 Admission Number; or 3 Foreign Passport Number and the County of Issuance" This instruction controdicit the current Form I-9 guidance (page 2 of the current I-9 states and page 6 of the M274.

page 3 seems to be very repetitive.

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0358

Tracking Number: 1k0-8nin-nug6

Document Information

Date Posted:
Jan 22, 2016

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Comment Submitted by Sysvanh Kabkeo, Refugee Programs Bureau

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#)

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0359

Tracking Number: 1k0-8nj5-3sxt

Document Information

Date Posted:
Jan 22, 2016

[Show More Details](#)

Submitter Information

Submitter's Representative:
Kayla Paulick

Comment

The California Department of Social Services (CDSS), Refugee Programs Bureau (RPB) has identified one proposed change that may be confusing to our populations. We are recommending that the old language be kept, which is listed under "Current Instruction".

Form I-9, Employment Eligibility Verification:

Current Instruction:

4. Alien authorized to work: If you are not a citizen or national of the United States or a lawful permanent resident, but are authorized to work in the United States, check this box.

Proposed Revision:

4. An alien authorized to work: An individual who is not a citizen or national of the United States, or a lawful permanent resident, but is authorized to work in the United States. Asylees, refugees, and certain citizens of the Federated States of Micronesia, the Republic of the Marshall Islands, or Palau should select this status.

The proposed changes to the instructions has included a list of examples of work authorized populations, however this list of examples is not an all-inclusive list and it is not indicated in the proposed instructions that there are other work authorized populations not listed that should also check this box.

Recommendation:

The CDSS, RPB recommends that there be no changes to the current instructions for Section 1. Employee Information and Attestation, number 4. An alien authorized to work.



Comment Submitted by Mitchell Furumoto

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

Can a new field be added in Section 2 for "Employment Authorization End Date" since it's not always clear from the document(s) provided? For example, 1) an F-1 student on CPT is only authorized for the specific duration specified in the specified area of the I-20, not the expiration of the I-20 itself and 2) an H-1B who initially enters the US in H-1B status may be granted entry to include a 10-day grace period at the end, so the I-94 expiration date can be misleading.

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0360

Tracking Number: 1k0-8nj9-2zqc

Document Information

Date Posted:
Jan 22, 2016

[Show More Details](#) 



Comment Submitted by J. Andrew Hatter

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0361

Tracking Number: 1k0-8nk9-f9hx

Document Information

Date Posted:
Jan 25, 2016

[Show More Details](#) 

Comment

Brick and mortar hiring practices are becoming increasingly modernized by remote Internet based hiring especially in the contingent staffing sector. Therefore it will be helpful to provide an Electronic e-Form I-9 section that permits Identification Document Examination via Video Conference as acceptable and amending the I-9 Central Q & A for using an E-Notary. This provision will be commensurate with the increasing change for remote hiring practices and available technology.

It is widely considered today that no one can validate an identification document simply by seeing or touching it physically unless authenticating technology is implemented. The employee identity attributes collected on the e-Form I-9 are queried to the E-Verify platform which is the basis for identification document validation and employment eligibility.

The purpose of Video Conference is to see and with consent, record the actual person/employee, their identification documents, verbal identity assertions and attestations, for identity verification/certification. Therefore we respectfully ask the Agency to consider our submission and attached collateral which illustrates potential framework for additional e-Form I-9 processing and Notary Public/Trusted Agent guidelines.

Kind Regards,

Attachments (1)

2016 ELECTRONIC FORM I 9 RECOMMENDATIONS

View Attachment: 

From: Storm, Jennifer [mailto:jstorm@pa.gov]
Sent: Wednesday, January 20, 2016 1:55 PM
To: USCIS FR Comment <USCISFRComment@uscis.dhs.gov>
Cc: Waltemyer, Gerald <gwaltemyer@pa.gov>; Talaber, John <jtalaber@pa.gov>; Hockenberry, Pennie <pehockenbe@pa.gov>; Laird, Karen <kalaird@pa.gov>
Subject: Office of Management and Budget (OMB) Control Number 1615-0047, Office of Victim Advocate, Docket ID USCIS-2006-0068
Importance: High



January 20, 2016

Department of Homeland Security
United State Citizenship and Immigration Services
Office of Policy and Strategy, Regulatory Coordination Division
20 Massachusetts Ave, NW
Washington, DC 20529-2140

RE: Office of Management and Budget (OMB) Control Number [1615-0047](#), Office of Victim Advocate, Docket ID USCIS-2006-0068

Dear Director Rodriquez:

The Office of Victim Advocate (OVA) is providing comment on the proposed revisions to the Form I-9 and to request changes to the current version of the form. This current proposal would prohibit the use a P.O. Box on the Form I-9 and requiring a physical address, this puts some of the most vulnerable clients the OVA serves in unintentional undue harm and potential risk. The OVA currently oversees our statutorily mandated Address Confidentiality Program (ACP). See 23 Pa. C.S. §§ 6701 *et seq.* (Statute). The Address Confidentiality Program (ACP) helps victims of domestic violence, sexual assault or stalking keep their new home address safe from their perpetrator after they have left an abusive or dangerous situation. The program has two basic parts. First, the ACP provides a substitute address in the form of a P.O. Box for participants who have moved to a new location unknown to their perpetrator. The second part of the program provides participants with a free first-class confidential mail forwarding service. Victims of domestic violence, sexual assault, stalking, and persons who live in the same household as the victim may apply to participate in the ACP.

Applicants must apply to our program through a local domestic violence, sexual assault or victim services program, at which point our staff thoroughly vets the applicant to ensure all information being provided is factual and to avoid any form of abuse in the program. We check criminal history, alleged offense information including protection from abuse orders, civil or criminal docket information etc. Once an applicant is accepted into our program we print them an "ACP Authorization Card" with their substitute address. The ACP substitute address may be used whenever a participant's home, work or school address is required by state and county government agencies. Their state and local government records are protected, making it difficult for perpetrators to find their victims by attempting to use public records. By requiring an ACP participant, i.e. a victim of domestic violence, stalking or sexual assault to prohibit an ACP participant from using their P.O. Box on a Form I-9, we are increasing the probability of their physical address being compromised and their personal safety at risk.

Therefore, we respectfully request that you create an exception on the Form I-9 and allow for those across the country who are attempting to regain a sense of safety and control in their lives to continue to use Address Confidentiality Programs in the manner it was intended on all governmental forms.

The OVA thanks you for considering this request that can and will have a beneficial impact on the lives of crime victims.

Thank you,

A handwritten signature in cursive script, appearing to read "Jennifer Storm".

Jennifer Storm,
Victim Advocate

Jennifer R. Storm | Victim Advocate
Office of Victim Advocate
Commonwealth of Pennsylvania
1101 S. Front Street | Suite 5200 | Harrisburg | PA | 17104
Phone: 717.214.2256 | Fax: 717.787-0867
jstorm@pa.gov | www.ova.pa.gov
Address Confidentiality Program www.paacp.pa.gov

Mission: The Pennsylvania Office of Victim Advocate is dedicated to representing, protecting and advancing the individual and collective rights and interests of crime victims.

From: Ma'ayan Anafi [mailto:manafi@transequality.org]
Sent: Wednesday, January 20, 2016 2:44 PM
To: USCIS FR Comment <USCISFRComment@uscis.dhs.gov>
Subject: Comment re: proposed revision to Form-I-9 (Docket ID USCIS-2006-0068)

Please find attached a comment submitted on behalf of the National Center for Transgender Equality and Transgender Law Center regarding the proposed revision to Form I-9 (OMB Control Number 1615-0047; Docket ID USCIS-2006-0068). We appreciate your consideration of our comments. Please do not hesitate to let us know if you have any questions.

--

Ma'ayan Anafi
Policy Counsel
National Center for Transgender Equality

1400 16th St. NW, Suite 510
Washington, DC 20036

U.S. Citizenship and Immigration Services
Office of Policy and Strategy
Chief, Regulatory Coordination Division
20 Massachusetts Avenue NW
Washington, DC 20529-2140

January 20, 2016

Re: Office of Management and Budget (OMB) Control Number 1615-0047; Docket ID USCIS-2006-0068; Employment Eligibility Verification, Form I-9

The National Center for Transgender Equality and Transgender Law Center submit the following comments on the proposed revision to USCIS Form I-9.

We strongly support the change of the current “Other Names Used” field to a more narrowly tailored “Other Last Names Used” field. This change will ensure collection of information necessary for employee verification while avoiding the collection of unnecessary private and potentially embarrassing personal information. This change would reduce the burden of information collection for employees, employers, and government personnel, and has the important benefit of avoiding unnecessary disclosure of personal information that could contribute to employment discrimination.

An estimated 700,000 adults in the United States are transgender, and many change their name when making a gender transition.¹ We have been concerned for some time that the mandatory collection of prior names on the I-9 form requires disclosures that breach the privacy of many transgender workers and open the door to employment discrimination. Workers have expressed to NCTE that they fear a predicament where providing a former name associated with the gender they were assigned at birth could open them to discrimination, while failing to disclose a former name could also be a basis for adverse action and easily serve as a pretext for discriminatory actions.

Narrowing Collection of Other Names is Necessary to Protect Privacy and Prevent Employment Discrimination

The Department of Justice, the Equal Employment Opportunity Commission, and numerous courts have held that Title VII prohibits discrimination based on transgender status, gender identity, or gender transition.² Unfortunately, discrimination against transgender workers remains

¹ Gary J. Gates, Williams Inst., *How many people are lesbian, gay, bisexual, and transgender?* 6 (2011), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/Gates-How-Many-People-LGBT-Apr-2011.pdf>.

² See Memorandum from Attorney General Eric Holder, *Treatment of Transgender Employment Discrimination Claims Under Title VII of the Civil Rights Act of 1964* (Dec. 15, 2014); *Macy v. Holder*, EEOC App. No. 0120120821 (2012); *Glenn v. Brumby*, 663 F.3d 1312 (11th Cir. 2011); *Barnes v. City of Cincinnati*, 401 F.3d 729

widespread. For transgender workers, disclosing a prior name is often tantamount to disclosing a legally protected characteristic, namely their transgender status.³ Perhaps the seriousness of the situation can be best understood by comparison; if the I-9 form required disclosure of a person's disability or pregnancy status, certainly we would be worried that an employer could improperly take that information into account in deciding whether to continue the hiring process and/or terminate the employee. Transgender workers have frequently faced termination or the withdrawal of job offers once an employer has learned of their transgender status.⁴ A national survey of more than 6,400 transgender adults published in 2011 found pervasive job discrimination: 29 percent of respondents said they had lost a job due to anti-transgender bias, while 50 percent reported gender-based harassment on the job.⁵ In addition to revealing a protected characteristic, sharing a former name can be deeply embarrassing in itself for transgender workers can be a potent weapon for workplace harassment.⁶

Given the widespread nature of discrimination against transgender workers, eliminating the unnecessary collection of former names that could reveal a person's transgender status is critical step for protecting workers' privacy and ensuring equal opportunity. Mandatory collection of this information, particularly when it passes through an employer, also raises significant statutory and constitutional privacy concerns.⁷

The “Other Last Names Used” Field Should Be Designated as Optional

We understand that the main purpose of the “Other Names Used” field in the I-9 form is to avoid confusion and delay in cases where a worker has one surname but is still listed by another surname, often surname used prior to marriage, on some official documents or records. The use of this field should be no broader than necessary to serve this purpose, particularly in light of the concerns we have outlined above.

While narrowing the use of this field to collect only “Other Last Names Used” will eliminate this problem in many cases, we believe it does not entirely resolve these privacy and equal opportunity concerns. Some individuals change their last name in addition to their first name during gender transition, and disclosure of a former last name is likely to lead to disclosure of the former first name associated with another gender. In addition, there are other situations where

(6th Cir. 2005); *Finkle v. Howard Cty., Md.*, 12 F. Supp. 3d 780 (D. Md. 2014); *Schroer v. Billington*, 577 F. Supp. 2d 293 (D.D.C. 2008).

³ *See, e.g., Lopez v. River Oaks Imaging & Diagnostic Group, Inc.*, 542 F. Supp. 2d 653, 659–661 (S.D. Tex. 2008) (holding job applicants have no duty to disclose transgender status or birth sex and failure to disclose does not constitute a legitimate, nondiscriminatory motive for adverse employment action); *Complainant v. Shinseki*, EEOC App. No. 0120133123 (2014) (disclosing employee's transgender status by refusing to change his name in agency computer system may constitute part of a pattern of discrimination); D.C. MUN. REGS. tit. 4, § 806 (adverse action based on failure to disclose a prior change of name or gender transition may constitute gender identity discrimination absent a reasonable business purpose).

⁴ *See, e.g., Macy*, EEOC App. No. 0120120821 (employer withdrew job offer upon learning of employee's transgender status); *Schroer*, 577 F. Supp. 2d at 306-08. (same); *Lopez*, 542 F. Supp. 2d (same).

⁵ Jaime M. Grant et al., *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey*, 53, 56 (2011).

⁶ *Lusardi v. McHugh*, E.E.O.C. App. No. 0120133395 (2015) (holding persistent use of a transgender employee's former name to ridicule and embarrass them may constitute gender-based harassment under Title VII); *Jameson v. U.S. Postal Serv.*, E.E.O.C. Appeal No. 0120130992 (2013) (same).

⁷ *See, e.g., Powell v. Schriver*, 175 F.3d 107, 112 (2d Cir. 1999) (holding that individuals have a constitutional right to privacy concerning transgender status); 5 U.S.C. § 552a(e)(1) (requiring that agencies collect and maintain only information “relevant and necessary” to accomplish purposes required by law).

individuals changed both their first and last name for personal and sensitive reasons such as domestic violence.

All employees have a strong incentive to provide former name information voluntarily when it may be needed to avoid a non-verification based on a last name discrepancy with other records. In most cases, an employee's former name isn't necessary for verification given the other information provided. For employees who have updated the name listed in their SSA record (and, if applicable, any other government records checked in the verification process), providing this information is unnecessary for verification purposes.

We therefore urge USCIS to further revise the Form I-9 to clearly designate the "Other Last Names Used" field as "Optional."

Thank you again for your consideration.



Comment Submitted by John Fay, LawLogix

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment

Please see the attached comment to the revised Form I-9, submitted on behalf of the LawLogix Division of Hyland Software, Inc.

Thank you for your time and attention.

John Fay
VP and General Counsel
Hyland Software, LawLogix Division

Attachments (1)

[Comment Submitted by John Fay, LawLogix \(Attachment\)](#)

View Attachment: 

Comment Period Closed
Jan 25 2016, at 11:59 PM ET

ID: USCIS-2006-0068-0364

Tracking Number: 1k0-8nl4-3n1z

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Jan 25, 2016

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Tel: 602-357-4240
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January 25, 2016

Laura Dawkins, Chief, Regulatory Coordination Division
U.S. Citizenship and Immigration Services
Office of Policy and Strategy
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection; Docket ID USCIS-2006-0068; Office of Management and Budget (OMB) Control Number 1615-0047

Dear Ms. Dawkins:

Hyland Software, Inc., through its LawLogix division (“LawLogix”) submits the following comments in connection with the proposed revisions to the Form I-9 which were announced in the Federal Register on November 24, 2015 (80 Fed. Reg., No. 226, 73200).

LawLogix is the leading provider of Electronic I-9 and E-Verify Compliance software and I-9 remediation services for organizations across the United States. Our clients represent some of the largest employers nationwide, creating millions of electronic I-9 records through our Guardian Electronic I-9 and E-Verify software application. Based in Phoenix, Arizona, the LawLogix division consists of over 70 employees, including attorneys, software engineers, customer support and account provisioning specialists, corporate trainers, and marketing and sales executives, each of whom is dedicated to the automation of I-9 and immigration practices.

LawLogix is pleased to offer comments and suggestions regarding the proposed release of a new “Smart I-9” form. Our experience in designing an electronic I-9 solution with advanced error-checking algorithms enables us to offer a unique insight into this process that we believe will benefit employers. In particular, LawLogix has worked closely with leading immigration attorneys across the U.S. in designing, testing, and verifying that the Guardian solution adheres to the latest government guidance and protocols.

At the onset, LawLogix recognizes the many improvements made to the I-9 and E-Verify programs during the last few years and respectfully asks the United States Citizenship and Immigration Services (“USCIS”) to consider further changes to reduce the administrative burdens experienced by well-intentioned employers throughout the country. As this comment will describe, the Form I-9 can be a very unforgiving process to employers, primarily because of the great uncertainty regarding the “correct” way to complete the form. As explained more fully below, LawLogix recommends that the USCIS provide clear instructions on optional fields; clarify the new rules for preparers and translators; adopt a flexible approach with respect to document titles; distinguish electronic I-9s from smart I-9s; and provide a reasonable grace period for using the proposed revised form.

1. Clearly indicate when requested form information is optional; do not penalize employers for failure to write “N/A”

The USCIS is now instructing the person completing the form to write the letters “N/A” in any form field which is not applicable (e.g., for individuals without an apartment number, an email address, a document number, etc.). The new proposed smart I-9 has also been designed to populate certain fields with N/A as well. The USCIS most likely made this change in order to ensure consistency of responses and to mitigate the chances of an accidentally omitted field. Many employers, however, will gloss over this particular instruction and/or simply forget to double-check that there are no blank spots on the Form I-9. The employer must then determine whether they should go back and insert “N/A” in to all previously completed forms (at great cost and expense) or if they can instead ignore the omissions as a harmless error.

The current audit landscape and lack of written guidance exacerbates this dilemma. The increasing number of investigations conducted by Immigration and Customs Enforcement (“ICE”) has made employers acutely aware of the potential liability for an incorrectly completed or prepared Form I-9. Employers will often describe how their I-9s are heavily scrutinized by ICE auditors, who are looking for any omission or mistake which may be classified as a substantive or technical verification violation. As the USCIS is aware, ICE has yet to release detailed guidance on what types of errors are considered substantive, technical, or harmless omissions under the good faith provision of the law at INA §274a(b)(6). As a result, employers are unable to determine (with any degree of confidence) when they should go back and fix a missing or incorrect piece of Form I-9 information.

The USCIS, however, has a unique opportunity to provide some much needed clarity in their form instructions. While LawLogix recognizes that USCIS cannot advise employers on what may or may not be a substantive or technical verification violation, the agency can most certainly indicate which fields (or instructions) are optional, suggested, or otherwise not strictly required to comply with the law. For example, the USCIS could include the following at the very beginning of the Form I-9 instructions:

“USCIS encourages (but does not require) employees and employers to write “N/A” next to any particular data field which is not applicable in order to avoid accidental omissions. Using “N/A” instead of blank fields will facilitate form completion and review.”

This revised instruction would serve two purposes: (1) it would explain why the USCIS is requiring the use of “N/A” (which is not readily apparent on the form itself; and (2) it would eliminate any confusion regarding whether the absence of the “N/A” could be the basis for a technical I-9 verification violation (a concern that is frequently expressed today by compliance-focused human resource managers).

The USCIS should also indicate other instances when a form instruction is a mandate (subject to penalty) or merely a suggestion (i.e., a best practice). For example, the revised instructions now indicate that an employee who has applied for a social security number should write “Applied for – In Process” in the SSN data field in those instances when an employer is participating in E-Verify. As with the “N/A” instruction above, employers are likely to miss this instruction which may lead to needless corrections or concern regarding whether such an omission will lead to an I-9 penalty or fine.

2. Clarify intentions regarding new preparer/translator section and instructions

The proposed new form I-9 now enables employers to enter multiple preparers and translators, each of whom must complete a separate preparer and/or translator section which is automatically added to the smart version of the form. As a result, the smart form can now grow beyond two pages depending upon how many preparers and/or translators were involved with a particular I-9 form. While LawLogix understands the likely rationale behind this change (namely to record details of all those involved in assisting the employee), the dynamic nature of the form may be very confusing to employers. Moreover, the proposed form requires the employee to affirmatively check one of three boxes (“No Preparer or Translator”; “One Preparer or Translator”; or “Multiple Preparers or Translators”), a section which will likely be missed by most new hires given its location at the very bottom of the form (beneath the employee signature).

LawLogix also has concerns with the new form instructions which warn preparers and translators that they may be subject to criminal prosecution if they serve as a preparer or translator and fail to sign their name in the field. The instructions are not only alarming (to the potential translator and/or preparer), but are also lacking in specificity with regards to the basis for such criminal prosecution. LawLogix recommends that the USCIS consider removing this line or clarifying under what exact circumstances would an omitted signature lead to criminal prosecution.

3. Do not require exact Document Titles be used in Section 2

The proposed form instructions now include four pages which specify exactly how document titles should be recorded in section 2 of the Form I-9. While these instructions were undoubtedly intended to facilitate completion of the form (through example), employers may needlessly fret over whether they need to record the documents exactly as indicated on the instructions or run the risk of ICE scrutiny during an audit. Moreover, these new instruction pages appear to contradict the long-standing USCIS policy that employers may use commonly known abbreviations in recording document titles (such a “DL” for driver’s license).

To address this concern, LawLogix recommends a two-step approach. First, the USCIS should move these instructions to the M-274 Employer Handbook which is designed to be a more comprehensive guide on completing the Form I-9. Removing these instructions from the Form I-9 will have the added benefit of reducing the total number of pages which must be read by the employer (which is now reaching 15 pages in total). Second, the USCIS should clearly indicate that the document titles are merely suggestions and the employer should record sufficient information to demonstrate review of the employee’s documents. Common sense abbreviations should also be allowed.

4. The USCIS should clearly distinguish this New Smart Form I-9 from Electronically Generated and Stored I-9s

LawLogix recognizes and appreciates the proposed warning on the new instructions which indicates that “Forms I-9 obtained from the USCIS website are not considered electronic Forms I-9 under DHS regulations and, therefore, may not be electronically signed.” Despite this language, however, employers are still likely to confuse and conflate the notion of an electronic I-9 as distinguished from a “smart form” which must still be printed, signed, and retained in paper form. During the past several years, LawLogix has met countless employers who mistakenly believed that they could simply “fill-out”

their I-9 in PDF (without any electronic signatures) and save the files in a shared drive (with minimal security or accountability). Many of these employers were later forced to re-I-9 a substantial portion of their employee population or risk fines in the event of an ICE audit.

In order to avoid this potential risk, LawLogix recommends that the USCIS draw even greater attention to this instruction (perhaps through bold font or all capitals) and provide further admonitions that employers should consult the requirements of 8 CFR 274a.2(e)-(i) to ensure compliance with the electronic I-9 regulations. LawLogix also recommends including more detail in the M-274 Handbook for Employers which explains the differences between the smart I-9 and an electronic I-9.

5. Provide employers with ample time to use the new form I-9

As mentioned earlier, LawLogix represents some of the largest employers in the United States, many of whom hire hundreds of thousands of individuals every year. These organizations have well defined onboarding processes in place which consist of specialized hiring and human resource manager training, tutorials on how to complete the Form I-9 for a wide variety of employees, and unique policies for handling the document review process. Any changes to their form I-9 process (no matter how minor or slight) will often require months of planning and coordination (not to mention changes in manuals and tutorials). For example, many of our clients with large foreign national populations will undoubtedly want to modify their processes to reflect the new "Additional Information" block in section 2, which will be used for TPS, H-1B, and other tricky scenarios.

To facilitate the transition, LawLogix respectfully requests that USCIS provide a minimum grace period of at least 180 days before an employer is required to use the new version of the form. In addition, the USCIS should provide clear instructions on what employers should do if they inadvertently complete an incorrect version of the form after the grace period has expired.

LawLogix applauds the USCIS for designing a new smart I-9 form which contains field-level validation and dynamic help text (both of which should facilitate the entire I-9 onboarding process) and appreciates the opportunity to provide feedback on behalf of our clients. If you have any questions, please do not hesitate to contact us.

Thank you for your time and consideration in this matter.

Sincerely,



John Fay
Vice President & General Counsel
Hyland Software, LawLogix Division



Comment Submitted by Lori Miller

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment Period Closed
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Comment

Page 1

Employee Name fields - Providing separate fields for Last name, First name, and Middle initial provides better definition.

Employee Information - Could the word "optional" be added to the employee e-mail address and telephone number fields?

Preparer and/or Translator Certification - The addition of additional preparers and/or translators to this section is confusing. Also, if the employee signs to confirm section one, their signature should be sufficient for completion of section one. The need to also select the "no Preparer or Translator" box is unnecessary.

Page 2

Employee Info from Section 1 - How will the Employee Citizenship Status be displayed? Will there be a drop down list made available for use with rehires?

Additional Information field - A much needed field!

Certification field - "State workforce agencies may omit the date the employee began employment": The addition of this statement may be confusing for those who complete I-9s for state employers.

Signature of Employer or Authorized Representative - Moving the signature to the right side of the form provides better flow.

Section 3 Header Field - The addition of the Header field is confusing and may cause some to

believe they need to fill in this field as well as the individual boxes below.



Comment Submitted by Rick Triola, NotaryCam, Inc.

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#)

Comment Period Closed
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ID: USCIS-2006-0068-0366
Tracking Number: 1k0-8nl5-w9ec

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Jan 25, 2016

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Comment

These comments are made in response to the 60-Day notice of Revision of a Currently Approved Collection, published by U.S. Citizenship and Immigration Services (USCIS) in the Federal Register on November 24, 2015 and titled Agency Information Collection Activities: Employment Eligibility Verification, Form 1-9; Revision of a Currently Approved Collection.

Our comments focus on questions (2) and (4), regarding the accuracy of the estimated time burden to complete the form and minimizing the burden of collecting responses, including the use of technology.

As an online notary and ID proofing service, we are contacted daily by new hires for remote employment in the US and internationally, who are in desperate need of our services to complete and return the I-9 documentation within the three-day period. Nationally there are approximately one million remote new hires annually. Many employers require their remote hires to have the I-9 signed by a notary, who frequently must also notarize an affidavit signed by the employee. Americans who are overseas face waits of two weeks to two months to secure an appointment at US embassies and consulates, which puts a massive and unfair burden on the employee. Notaries in California are prohibited from completing I-9 forms, creating similar problems for remote new hires in that state. And many notaries throughout the country are unwilling to notarize these documents because of the liability and misinformation surrounding the form.

The notaries who use our software are commissioned by the Commonwealth of Virginia to provide online notary services for signers anywhere in the world using antecedent (KBA) ID proofing and videoconferencing technology. The notaries also have access to ID authentication software which uses machine vision to confirm the originality and authenticity of government issued IDs using color photographs of the documents. By law, the videoconference must be recorded

and stored for a minimum of 5 years, easily available for audit purposes. Images of the submitted IDs can be stored as well. Information from other sources, such as E-Verify or other government databases, could be incorporated into our process. Yet Instruction 1 for Section 2 requires a physical examination of the documents.

While the burden on the employee to complete the form may be 10-20 minutes, it can take hours or even days for the employee to find a notary to act as an authorized representative. We strongly suggest amending the instructions to permit the use of online ID proofing service meeting the NIST Level of Assurance (LoA) 3 requirements to minimize the burden on the employee of completing the form. We have spoken with numerous employers, staffing agencies, HR software providers, and frantic, angry, and panicked employees who desperately need this option.



Comment Submitted by Margie Jones

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

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Date Posted:

Jan 25, 2016

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Submitter Information

Submitter's Representative:

Daniel Brown

Comment

On behalf of Intel Corporation please see the attached comments. See attached file(s)

Attachments (1)

[Intel comments on I-9 revision PRA 1-25-16](#)

View Attachment: 



January 25, 2016

Laura Dawkins
Chief, USCIS, Office of Policy and Strategy,
Regulatory Coordination Division
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Via: Federal eRulemaking Portal: www.regulations.gov

Re: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection
USCIS-2007-0023
OMB Control Number 1615-0047

Dear Ms. Dawkins:

Intel Corporation welcomes the opportunity to comment on the Paperwork Reduction Act (PRA) notice announcing revisions to the Form I-9 employment eligibility verification form published in the Federal Register on November 24, 2015. *See* 80 Fed. Reg. 73200 (Nov. 24, 2015). Although no supporting statement was included in the docket, the single biggest revision being announced is the release of a smart PDF form of the I-9 that is intended to provide additional guidance to employers completing the form electronically. Intel appreciates the fact that USCIS is developing a smart I-9 form to make the process easier for employers to meet their I-9 responsibilities. However, the release of the form should be delayed to allow greater development and improvements to the form's functionality and for sufficient guidance to be developed for the public to explain the many ambiguities caused by this proposed form amendment.

Intel is submitting these comments to raise some significant questions and concerns with the form amendments as proposed in the PRA notice as well as to provide some concrete and practical comments regarding a number of the specific form changes being proposed. Intel, headquartered in Santa Clara, California, is one of the world's leading technology companies and among the nation's largest employers with a domestic workforce exceeding 55,000. Intel designs, manufactures and markets microcomputer components and related products, including microprocessors, microcontrollers, memory chips, computer modules, motherboards, network and communication hardware and software products, personal conferencing software, and parallel supercomputers. Our vision is simple and direct. If it computes, it does it best with Intel. We embrace all aspects of computing. Our processors are inside a wide range of devices, from servers, PCs, tablets, phones, wearables, even in the Internet of Things. Intel provides a complete solution, with both hardware and software solutions for our users. Our goal is to continue growing in each segment and ensure that Intel technology remains the best choice and experience for each segment. Intel is the global leader in the semiconductor

industry. Intel developed the semiconductor technology on which the entire personal computer industry has been built, and our products have continually revolutionized the industry and redefined the role of the computer in our everyday lives.

Intel takes compliance with all of its legal obligations very seriously and it has invested significant resources into ensuring that the company complies fully with its I-9 and E-Verify compliance responsibilities. Intel has participated in the Government's E-Verify program since January 1, 2008. Our E-Verify participation was initially limited to our hiring sites in Arizona, in order to comply with an Arizona state law that mandates *E-Verify participation*. We subsequently expanded participation to all hiring sites nationwide and have significant experience using the program on a nationwide basis for several years.

- I. The changes being announced in this Paperwork Reduction Act notice should be delayed to allow for additional development of the smart I-9 form and sufficient explanation for the public

Intel appreciates the efforts being made by DHS to clarify and improve the I-9 process through the release of a new version of the I-9 form in the form of a smart, fillable PDF form. However, we believe there are a number of questions and issues raised by the introduction of this form and we think that employers and workers would be better served if additional development and documentation of this change is accomplished before issuing the revisions for public use.

- A. The PRA notice provides insufficient information for the public

First and foremost, we strongly urge DHS to provide better documentation for the public in connection with these changes. It seems clear that one of the important goals for the government to develop a smart I-9 form is to provide an additional tool for employers to assist them in complying with I-9 and employment verification requirements. This goal is hindered by the fact that insufficient documentation of the changes being made in this PRA notice is being provided to the public. The I-9 compliance process suffers from the fact that there are numerous sources of sub-regulatory information that are amended regularly, sometimes without notice, by the government. The regulations themselves largely do not provide much information regarding the nuts and bolts of completing I-9 forms. Instead, that information can be found in several other sources, such as the instructions to the I-9 form, the M-274 Handbook for Employers, information provided on the USCIS website, *I-9 Central*, in addition to sources such as case law, and statements and guidance by U.S. Immigration and Customs Enforcement, and the Office of the Special Counsel for Unfair Immigration-Related Employment Practices.

With all of these sources of guidance there can often be conflicts between sources of information and changes to existing information that are made with little notice to the public. This problem is exacerbated in this PRA notice. USCIS is seeking to issue a significant amendment to the I-9 form. The length of the I-9 form instructions is being increased 66% to 15 pages. Unfortunately, however, no supporting statement for the PRA notice has been made available in the docket for the public.¹ More importantly, however, USCIS has failed to provide a revised M-274 Handbook for Employers or revised I-9 Central web pages in connection with the amendments being proposed to the form. This is unfortunate. The proposed instructions to the revised I-9 form include eleven references to the M-274 Handbook for Employers and four references to the USCIS website. With the additional ambiguities being created with the new online version of

¹ A review of the docket on www.regulations.gov shows that previous PRA notices regarding I-9 form amendments were accompanied by supporting statements from the agency.

the form versus the paper form these sources should have also been revised in conjunction with the form and provided to the public for review.

- B. There should only be one set of instructions for the I-9 form regardless of the format in which the form is completed

One of the major problems with the proposed smart I-9 is the fact that USCIS is appearing to create two sets of instructions when completing the I-9 form. One for those using the smart I-9 version and another for those completing the I-9 on paper. Intel believes this will create yet another unnecessary area of confusion for employers and strongly urges USCIS to rethink this approach and have a single set of I-9 instructions that is applicable to all employers, regardless of the method in which the form is completed. The smart I-9 version of the form provides hover text for each field of the form with detailed instructions for each of those fields that is obviously not available to those employers completing the form on paper. This two version aspect of the proposed instructions will lead to unnecessary confusion for users. For example, on the new proposed version of the form at the top of the second page where section 2 begins, there is new proposed field where the employer is supposed to enter the number that correlates to the immigration status box selected by the employee in section 1. However, this instruction only applies to users of the smart I-9 form from the USCIS website, and is supposed to be disregarded by employers completing the I-9 form on paper, although this is not apparent on the form, and can only be discerned from a careful reading of the fifteen page set of proposed instructions. The manner in which the smart I-9 form has been developed and proposed will limit its usefulness to the public. It is unlikely that large employers such as Intel, with well developed I-9 compliance programs, particularly those that already use an electronic I-9 program, will find the smart I-9 form useful or efficient for managing its I-9 and E-Verify compliance responsibilities. Smaller employers that do not use computers in the I-9 process, or those employers that may hire in the field (construction, agriculture for example) will also not benefit from the introduction of the smart I-9 form but will have to deal with the fact that there are two sets of instructions. Some employers may also be unable to use the smart I-9 version of the form because it apparently requires the use of current version of a particular type of software, Adobe Reader. Some employers may not have the latest version of Adobe Reader or may have systems that are not compatible with the latest version. USCIS should not implement a generally applicable version of the I-9 form that is must be used for every new hire made in the U.S. that is dependent on a single software product to enable its use.

- C. The implementation of the smart I-9 form should be postponed until there is an electronic signature capability

However, the biggest impediment to the usefulness of the new smart I-9 form is the fact that it cannot be signed electronically. This makes the smart I-9 very inefficient to use. By law sections 1 and 2 of the I-9 form can be completed at different times. In this situation, an employer using the smart I-9 form would have the employee complete section 1 online, and then would need to print out the form for the employee to sign since as currently proposed it can only be signed on paper. The employer would then need to save an unsigned version of the form and a PDF copy of the form signed in section 1. If the employer also wants to complete section 2 of the form online using the smart I-9 form, the employer could continue with the saved version of the unsigned form and then print out that form and sign it on the paper print out. However, the employer would then need to save the unsigned version of the full form and a new PDF copy of

the version of the form that was signed in section 2. So now there are three saved versions of the form, a PDF copy of the originally signed section 1, a PDF copy of the originally signed section 2, and a saved copy of the online and unsigned version which an employer would need to retain if the employer was going to need to update the form in the future or if reverification would need to be performed in the future in section 3. This is inefficient and burdensome for purposes of storage and retention. It is also unclear whether these different saved versions of the form in different formats would satisfy the I-9 regulations with regards to the required format for I-9 forms. This inefficiency and uncertainty regarding acceptability will hinder the acceptance and use of the smart I-9 version of the form by the public. *See* 8 C.F.R. § 274a.2(b)(2)(i).

D. USCIS should provide notice to the public as to how the new smart I-9 version of the form will impact users of electronic I-9 systems

Intel, like increasing numbers of large employers currently employs an electronic I-9 program to help the company track its many new hires and to manage its I-9 and E-Verify compliance responsibilities. The proposed smart I-9 version of the form includes substantial instructions in the form of hover text for the different fields of the I-9 form. However the proposed instructions to the form do not clarify the weight to be given to the hover text instructions? Is the information in the hover text the same as the written proposed paper instructions? If so, why are those instructions not available to users who will complete the form in paper format? If the hover text is to be considered and accorded the same weight as the written instructions to the form then what will this mean for electronic I-9 systems? Will they be required to implement the hover text instructions? Since there was no supporting statement provided with the PRA notice there is no discussion of this and many other issues. The new I-9 form version should not be implemented until this issue is clarified for both the general employer public and those companies that provide electronic I-9 programs.

II. The public burden and cost estimate provided by the PRA notice appears to be deficient.

The public burden estimate provided by USCIS in the PRA notice appears to be incorrect. It is difficult to fully review and provide comments on this issue because no supporting statement discussing the public burden analysis was provided in the docket for the public to review. However, a review of the burden estimate provided in the federal register notice with the burden estimate provided to the public the last time the I-9 form was amended provided in August 2012 raises substantial concerns with the sufficiency of the agency's analysis in this case. *See* USCIS Supporting Statement, Document number, USCIS-2006-0068-0210 (August 28, 2012). For example, the PRA notice estimates that there will be 55,400,000 respondents using the form. Inexplicably in 2012 USCIS estimated a significantly greater number of respondents, 78 million. In spite of the fact that the instructions for the proposed form have been increased by 67% and the additional complexities raised with the completion of the form electronically but signing the form on paper, USCIS has also assigned the same hourly burden estimate to the proposed form as the form version that was modified in 2012. The 2012 supporting statement provided by USCIS provided a total annual respondent cost of \$1,235,864,000. Incredibly, the total cost estimate for the proposed form change is zero. These wide discrepancies in the estimates for changes to the same form just a few years apart raise serious questions regarding the sufficiency of the burden estimate published in the Federal Register for this PRA notice.

III. Comments on proposed form changes

In addition to the concerns raised above, Intel has a number of comments on the various aspects of the form changes being proposed. The ambiguities and issues raised with regard to some of these specific proposed changes only strengthen the need for USCIS to delay implementation of this proposal until further guidance and thought to these form amendments can be made.

(1) USCIS should not revise the current preparer/translator section of the form

In the proposed form USCIS has added a new set of check boxes that must be selected when using the form to indicate whether no preparer or translator was used, one preparer or translator was used, or more than one preparer or translator was used. No information or justification for this new requirement is provided. To further confuse the issue, the instructions for this area are different if an employer completes the form online using the smart I-9 or if the employer completes the form on paper. If the box for more than one preparer or translator is selected an additional preparer/translator section must be completed and retained with the form. There is no justification for this additional burden on employers.

In addition, the instructions for this section are confusing because it is not clear whether the instructions are targeted at the employee or the employer. All of the form instructions should be written in the third person to ensure that it is readily apparent to whom the instruction is directed. Moreover, the language on the form itself appears to contradict the instructions. The instructions state that one of the check boxes must be selected. However the text on the proposed form indicates that a box needs to be checked only if a preparer or translator is used.

(2) Questions related to the drop down lists of document titles and issuers

For the first time ever, the proposed instructions for the form include lists of document names and instructions as to what should be entered on the form for each document type. The smart I-9 form version also has drop-down menus for documents that are to be recorded by the employer in section 2. Both of these proposed changes raise questions and issues. First of all the drop-down menus are not complete and are missing certain documents or issuing authorities. For example, the List A drop down menu does not include a choice for receipt for a US passport, and the list of issuing authorities for a social security card in List C does not include the Department of Health, Education, and Welfare, even though there are significant numbers of individuals with cards issued by that agency that are still in the workforce.

The usefulness of the document list in the instructions and the drop down menus on the smart version of the form are diminished because they don't include document titles and issuers for documents that are commonly used on the I-9 form even though they are not included on the I-9 list of acceptable documents, such as an I-94 standing alone, the I-20, the DS-2019, and various documents that can be used in the List C(8) category. The drop down menus for documents can cause completion problems for employers. For example, Intel hires foreign students whose employment authorization is based on Optional Practical Training (OPT). In certain situations employees on OPT may have their work authorization extended through the Cap-Gap. Under the guidance in the M-274 an employer is supposed to record the student's expired EAD and his or her I-20 endorsed for the Cap Gap should be recorded in List A. However, when an EAD is selected in the drop down menu on the smart I-9 version, the form automatically pre-populates the other document sections in list A with "NA". The usability of the smart I-9 form version would be enhanced if the employer had the option to manually input document information. The instructions for what to enter onto the form for I-9 documents also raise questions that are not addressed by any of the materials in the public docket for this PRA notice. For example, are the instructions as to what to enter onto the form requirements? Is it an error to write something

different on the form or to use a different name or abbreviation for a document than what is provided in the proposed instructions? If so that would appear to conflict with current guidance on page 6 of the M-274 that allows an employer to use common abbreviations for document titles such as “DL” for Driver’s License.

- (3) The instructions for the new proposed field in section 2 of the I-9 form are extremely confusing

The proposed I-9 form includes a new field labeled “Additional Information” in section 2. However, the instructions for this section are incomplete and will cause significant confusion and burden for employers. The instructions state, “[u]se this space to document additional information that is sometimes required for Form I-9, such as:

- Additional notations on Form I-9 to describe special circumstances such as TPS ext., AC-21, 240-day ext., 180-day ext., 120-day ext.
- Information from additional document(s) that certain F-1 or J-1 nonimmigrant employees may present
- The E-Verify case number

These instructions are entirely insufficient. First of all if any information is actually required as the instruction indicates is sometimes the case then the instructions should make clear when and what information must be provided. In addition the first bullet provides abbreviations for a number of potential situations but makes no attempt to define what they stand for or when they might need to be included on the form. The proposed instructions will provide a significant amount of confusion for many employers as to just when this section should be used and what information needs to be recorded.

As more and more employers are using E-Verify it would make more sense to create a separate field on the I-9 form to record the E-Verify case number.

Intel thanks you for the opportunity to comment on this important matter. For the reasons provided above, we are grateful that USCIS is actively developing ways to reduce the I-9 compliance burden for employers, but for the reasons provided above we believe further development of the smart I-9 version, and fully completed guidance regarding the proposed changes should be completed before the revised form is required to be used by the public. If you have any question’s regarding Intel’s submission please don’t hesitate to contact me.

Sincerely,



Margie Jones
US Immigration Ops Manager



January 25, 2016

VIA ELECTRONIC SUBMISSION

USCISFRComment@uscis.dhs.gov
Department of Homeland Security
U.S. Citizenship and Immigration Services
Laura Dawkins
Chief, Regulatory Coordination Division
Office of Policy and Strategy
20 Massachusetts Avenue NW
Washington, DC 20529-2140

RE: OMB Control Number: 1615-0047
Department of Homeland Security
Docket ID: USCIS-2006-0068

Dear Ms. Dawkins:

Equifax Workforce Solutions appreciates the opportunity to provide comments in response to the Federal Register notice on November 24, 2015 regarding the proposed revision of a currently approved collection of information for the Employment Eligibility Verification, Form I-9 (“I-9” or “Form I-9”). Specifically, Equifax Workforce Solutions’ comments are in response to the timing of the revised I-9, the proposed QR Code, which will replace the 3-D Barcode on the Form I-9, as well as the timing of future E-Verify upgrades for electronic I-9 vendors as those upgrades relate to the “smart” I-9 envisioned as a result of the Federal Register notice.

Equifax Workforce Solutions

Equifax Workforce Solutions a/k/a TALX Corporation is a wholly owned subsidiary of Equifax, Inc. Workforce Solutions is based in St. Louis, Missouri and provides human resource, analytics and verification services. One of the compliance solutions that Equifax provides employers is an I-9 and E-Verify tool called I-9 Management. This service helps employers achieve streamlined compliance and a cost savings through paperless, electronic I-9s and integration with E-Verify.

Hundreds of employers in the United States, representing over 7 million employees use Equifax’s I-9 Management tool. As of September 2015, Workforce Solutions processed more than 21 million Employment Eligibility Verification forms with over 1,000 active clients benefiting from I-9 Management solutions. Equifax has substantially improved the employee onboarding process for many employers, improved compliance, and saved companies billions of dollars in potential penalties by minimizing the chance of errors in filing the Form I-9.¹

¹ *Equifax Workforce Solutions Achieves Historic Milestone in Form I-9 Management*, Equifax, PRNewswire, Sept. 23, 2015, http://investor.equifax.com/releasedetail.cfm?sh_print=yes&Releaseid=932734.

Equifax Workforce Solutions provides organizations with workforce solutions beyond its I-9 Management tool, many of which assist our clients in the onboarding of employees. By this we mean we automate the process of collecting and managing new hire documentation to increase compliance, accuracy and efficiency.

As a part of the onboarding process, we provide our clients with additional functionality to allow them to more easily integrate with their Human Capital Management systems, interact with our solutions, and facilitate their compliance with government programs and other needs, including I-9 and E-Verify compliance, state wage notifications and other new hire compliance requirements.

The I-9 Management tool is no exception. We have built into this solution additional functionality, such as bulk closure functionality (as opposed to individual closures) for employers that hire large volumes of individuals. Based on our experience with our clients, we ask that the Department of Homeland Security (DHS) consider when in the calendar year it rolls out the revised Form I-9. The current form I-9 expires 03/31/2016. If DHS can review the public comments and roll-out a revised I-9 by that time frame that would benefit business as opposed to waiting until the last quarter of the year. Typically, employers will hold in abeyance any new or proposed substantive changes, functionality or training related to solutions we offer, including I-9 Management, during the last quarter of the year, beginning in September, as they focus on hiring for the holiday season. Rolling out a revised I-9, with substantive changes not only to the form but the instructions, at the end of the year would be disruptive to the hiring practices of American businesses.

Changing the 3-D Barcode to a Smart QR Code

The proposed changes to the Form I-9 listed in the November 24, 2015 Federal Register notice propose significant technical, structural, and substantive modifications to both the Form I-9 and the Form's associated revised Instructions for Form I-9 ("Instructions"). Most significantly, the Form will become "smart" in that it will be able to guide the user to fill out certain sections, offer pop-up or hover instructions, auto-populate sections, provide drop-down lists with known information, and generate error checks for completion and accuracy. The digital accessibility and "smart" features have the potential to make the form easier to complete, but the consequences of using these new features leaves some unanswered questions about how USCIS will validate the accuracy and completion of the "smart" Form I-9—especially given all of the new "smart" features.

USCIS's Proposed QR Code Changes

The first QR Code change is proposed on page 17 on USCIS's Table of Changes – Fillable Form.² USCIS indicates that the 3-D Barcode in Section 1 will be revised to display "QR Code – Section 1 Do Not Write in this Space" The "helper text" explains that:

² Table of Changes – Fillable Form, USCIS-2006-0068-0250 (Posted Nov. 24, 2015), available at <http://www.regulations.gov/#!documentDetail;D=USCIS-2006-0068-0250>.

“This form uses the information you enter to generate a QR code that will print on your completed form. The information in the barcode may be scanned by employers or during the course of Form I-9 inspection by government officials.”³

The second change of this kind is found on page 45 of the Table of Changes – Fillable Form. There the 3-D Barcode will be revised to appear as “QR Code - Section 2 & 3.” In this proposed revision an additional explanation is offered:

“After the form successfully validates that all fields were completed in either Sections 2 or Section 3 per form requirements, the information in that section is populated into the QR Code and the box’s title will change to **QR Code – Section 2** or **QR Code – Section 3**, depending on which section was completed.”⁴

In Sections 2 and 3, the same content that was offered as “helper text” above is now shown as “hover text” that will display for users when seeking further explanation or instruction.

What the QR Code Changes Indicate about the Future of I-9 Verification

These explanations suggest that the change from the 3-D Barcode to the QR Code is more than just a rebranding, but rather a significant technical change to the way the form will be “coded” and processed when an employer utilizes the “smart” I-9. While USCIS has offered a preliminary description for this change, the lack of a more detailed explanation leaves many questions about the possible implications of adopting this digital QR Code and whether and how it will enhance the quality and utility of the information collected.

As explained in the supporting documents, in Sections 2 and 3, the QR Code is generated after successful validation that all fields were completed per the I-9 requirements. Furthermore, by intelligent design, the Form I-9 will know whether to generate a QR Code for Section 2 or for Section 3. This begs the question—upon completion of the I-9, does the generation of a QR Code indicate that the form was “approved” as properly completed per USCIS’s requirements? In other words, is the QR Code in effect a stamp of approval from USCIS? Certainly, reading the description offered by USCIS in the supporting documents to the Federal Register notice leads to that understanding. If that reading of the proposed change to the QR Code is not what USCIS intended, then additional clarification about the nature and practical significance of the QR Code is necessary.

Another consideration related to the QR Code is the potential suggestion of a safe harbor for those employers that use the digital “smart” Form I-9. The revised Instructions explicitly state electronic completion of the Form I-9 is not required, and that there will still be the option to “simply print out a blank copy to enter information by hand.” If the QR Code is a pre-approved stamp of proper completion, and the QR Code is only generated when users fill out the digital

³ Table of Changes – Fillable Form, USCIS-2006-0068-0250, pg. 17.

⁴ Table of Changes – Fillable Form, USCIS-2006-0068-0250, pg. 45.

form, then it appears that employers that complete the “smart” I-9 may gain a benefit which employers who otherwise complete the I-9, such as in paper format or through use of an electronic I-9 vendor who has a compliant electronic Form I-9 under DHS regulations,⁵ will not. Specifically, there is a tacit suggestion that employers which maintain Form I-9s that display QR Codes may be less exposed to government audits, or at least more likely to pass such audits by default compared to employers that maintain paper format or electronic I-9s completed using a vendor’s software that are not pre-approved with a QR Code. This type of “safe harbor” will lead to inequitable treatment of some employers—particularly smaller employers that may have fewer resources to complete a “smart” I-9—and therefore instead of minimizing the burden on them, actually increase it.

This brings us to our final comment for consideration relative to the QR Code and data privacy and data security. There is not sufficient detail to opine on the value to employers of the QR Code, not to mention the legality of the QR Code, as we do not fully understand what data elements will be contained within the QR Code, who will house the data contained within the QR Code, and how that data will be provided to the government in the event of an audit.

E-Verify Updates - Web Services Access for E-Verify Employer Agents and the Smart I-9

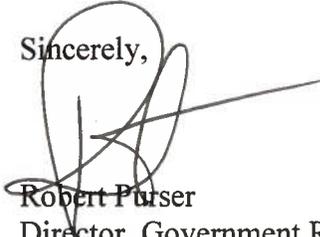
As an electronic I-9 software vendor who integrates with the E-Verify system as a Web Services Access for E-Verify Employer Agents, Equifax Workforce Solutions interacts with the E-Verify system on the basis of an Interface Control Agreement (ICA). The ICA is a document which provides technical requirements that a Web Services E-Verify Employer Agent must meet to create and maintain a web services interface to the Verification Information System. This is not a static situation and USCIS regularly pushes down upgrades. Whenever an upgrade is pushed down to Web Services providers, the upgrade must be implemented within six months. The most recent upgrade, E-Verify 29, was pushed down at the end of 2015. This latest upgrade requires significant technology upgrades related to the API “calls” between the E-Verify system and the Web Services provider which are time consuming, costly and will require significantly more human resources as well as capital than we have experienced in prior upgrades. Because Equifax Workforce Solutions has product offerings beyond I-9 Management we operate within defined roadmaps which are established and budgeted for in advance. The most recent upgrade, E-Verify 29 is more costly and time consuming than was expected based on prior upgrades. In light of this, the question is how USCIS will handle future upgrades to the E-Verify system to implement any planned changes to E-Verify based on the “smart” I-9 for Web Services Access providers, including potential use of the QR Code or extraction of data from the “smart” I-9 when transmitted to E-Verify when the latest upgrade (E-Verify 29) presents challenges in terms of timing.

Conclusion

As one of the largest providers of electronic I-9 services in the market, Equifax Workforce Solutions respectfully requests that USCIS take under consideration our specific concerns regarding this Federal Register notice. We appreciate the opportunity to engage on this issue with you.

⁵ This refers to an electronic Form I-9 under 8 C.F.R. § 274a.2(e) – (i).

Sincerely,

A handwritten signature in black ink, appearing to read "Robert Putser". The signature is written over the printed name and extends upwards into the "Sincerely," line.

Robert Putser
Director, Government Relations, Equifax, Inc.





Comment Submitted by Natalie McNair

This is a Comment on the **U.S. Citizenship and Immigration Services (USCIS) Notice: Agency Information Collection Activities: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection**

For related information, [Open Docket Folder](#) 

Comment Period Closed

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Date Posted:

Jan 25, 2016

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Submitter Information

Submitter's Representative:

Natalie McNair

Comment

Please see attached comments regarding the revision of the I9 submitted on behalf of TrueBlue, Inc.

Thank you,
Natalie McNair
Director of Gov't. Relations
TrueBlue, Inc.

Attachments (1)

USCIS 2006-0068 Comments TrueBlue, Inc.

View Attachment: 



January 25, 2016

Submitted electronically via the Federal eRulemaking Portal at <http://www.regulations.gov>.

Chief Laura Dawkins
Regulatory Coordination Division
USCIS, Office of Policy & Strategy
Department of Homeland Security
20 Massachusetts Avenue, NW
Washington, DC 20529-2140
(OMB) Control Number 1615-0047
Docket ID USCIS 2006-0068

RE: Agency Information Collection Activities: Form I-9, Employment Eligibility Verification

Dear Ms. Dawkins:

TrueBlue, Inc. (“TrueBlue”) is pleased to submit this letter in response to the request for comments on the proposed revision of the I9. We appreciate the Department’s efforts to update the I9 and offer some recommendations that would make it easier for employers to comply with the various documentation requirements related to the I9, particularly those that E-verify their employees. We also request that the Department provide a six-month transition period to provide time for the IT infrastructure changes companies will need to make to accommodate all of the changes to the electronic versions of the I9.

SUGGESTIONS FOR ADDITIONAL FIELDS

TrueBlue screens all of our employees for work eligibility using E-verify. We are also a partner with the Department of Homeland Security via its IMAGE program. As such, we are required to either document on or attach to the I9 information related to the employee’s status and e-verify documents. Furthermore, due to the fact that TrueBlue processes nearly a quarter million I9s each year, we have

suggestions for other fields that will make it easier for employers to manage the I9 collection and retention process.

- **E-Verify Verification Number** on the upper right corner of the I9. E-verify requires employers document this on the I9; a standard field would make it cleaner and easier to comply.
- **Memo** field so that any discrepancies can be properly documented as we must document such as an E-verify and IMAGE employer.
- **Second Reviewer's Signature**. As an IMAGE partner, we are required to provide additional documentation. Providing spots on the I9 itself for this documentation would make it easier for employers to comply with IMAGE requirements:
- **Last Date Worked or I9 Expiration Date**. This field would make retention and destruction much more efficient.

PROVIDE LONGER TRANSITION

We use electronic I9s when and where possible. Our electronic I9s are automated and locked down to prevent user error. Since we operate several divisions, we have incorporated these I9s in several unconnected information management systems. It is much easier to make these changes when you are dealing with a single piece of paper. It is much more difficult and time consuming when you have to change the IT infrastructure of several databases. As such, we recommend and request a six-month transition period rather than the standard two-month implementation period offered now.

TRUEBLUE

TrueBlue offers a continuum of staffing, workforce and recruiting solutions. As a leading supplier of temporary work, TrueBlue provides employment opportunities and a bridge to permanent jobs for many who otherwise face barriers to entering the workforce. TrueBlue connects as many as 750,000 people to work each year and helps more than 135,000 businesses be more productive. In 2015, we placed more than 110,000 people in permanent jobs, including more than 5,000 veterans. We connect people to work by filling individual positions on demand, staffing entire facilities, and managing the recruiting processes for our business clients. Our customers include companies in industries such as construction, transportation, aviation, waste, hospitality, retail, renewable energy, pharmaceuticals, financial services, and manufacturing.

TEMPORARY EMPLOYMENT

Temporary employment plays a critical role in the economy by providing employment flexibility for workers and businesses. Temporary staffing firms employ more than 14 million people annually. Temporary employment is an important tool in mitigating unemployment while offering a significant opportunity to find permanent employment. It also provides people with on-the-job training, allowing them to learn new skills and expand their knowledge base, which can later be transferred to other employers and strengthened.

At the same time, temporary employment provides businesses with the opportunity to support or supplement their workforce in response to employee absences, skill shortages, seasonal workload changes, and special assignments or projects. Moreover, in the current economy and tightening labor market, we find the right people with the right skills, and allow employers to gauge business and economic conditions before committing to permanent hires.

If someone works for TrueBlue, that person is an employee of the company rather than an independent contractor. Employee status integrates workers into the U.S. economy, ensuring that they are eligible to work in the U.S., that all workers' compensation, unemployment, and income taxes – as well as any court-ordered garnishments – are withheld and collected, and that W-2s report income accurately.

CONCLUSION

Thank you for the opportunity to comment on the revisions to the I9. We offer our comments in the spirit of cooperation to guide the Department in ways that will make it easier for employers to comply with all of the requirements that several departments and agencies impose on employers in relation to the I9.

We look forward to working with the Department to address these issues. Thank you.

Sincerely,
/s/ Natalie McNair
Director of Gov't. Relations

January 25, 2016

Submitted via portal: <http://www.regulations.gov>

**Re: United States Citizenship and Immigration Services (USCIS) Revisions to Form I-9 - OMB
Control Number 1615-0047, Docket ID USCIS-2006-0068**

Department of Homeland Security
United States Citizenship and Immigration Services
Office of Policy and Strategy
Chief, Regulatory Coordination Division
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Dear Sir or Madam:

The Council for Global Immigration (CFGI) and the Society for Human Resource Management (SHRM) are pleased to submit these comments with regard to the proposed revisions to USCIS Form I-9 and its instructions which incorporate efforts to mitigate or prevent employer and employee error when completing the form. We appreciate the opportunity to comment on the form and the process for employers to hire and verify a legal workforce.

CFGI, founded in 1972 as the American Council on International Personnel, is a strategic affiliate of SHRM. It is a nonprofit trade association comprised of leading multinational corporations, universities, and research institutions committed to advancing the employment-based immigration of high-skilled professionals. CFGI bridges the public and private sectors to promote sensible, forward-thinking policies that foster innovation and global talent mobility.

Founded in 1948, SHRM is the world's largest HR membership organization devoted to human resource management. Representing more than 275,000 member employers in over 160 countries, the Society is the leading provider of resources to serve the needs of HR professionals and advance the professional practice of human resource management. SHRM has more than 575 affiliated chapters within the United States and subsidiary offices in China, India and United Arab Emirates.

Together, we represent many of the people who complete the employment verification process at workplaces across all industries and sizes. As such, our members need the best possible tools to verify that the people in their workforce are authorized to work in the United States, and to ensure that employers who act in good faith to verify their workforce are not subject to unwarranted liability. Accordingly, we submit the following comments and recommendations.

I. A revised Form I-9, even if successful at mitigating and preventing error, should not be a substitute for the real solution: a fully-integrated electronic verification system that eliminates the redundancies in Form I-9 and E-Verify.

We appreciate the continuous efforts of USCIS to revise its forms to assist users in reducing errors. We support the improvements proposed for the new Form I-9, including the incorporation of question marks in each field which provide instructions for filling out that field and error messages when fields appear to be filled out incorrectly. This form is an improvement over the current Form I-9, which is also a fillable PDF but does not offer interactive assistance to users.

However, the proposed Form I-9 is not an “electronic I-9;” it cannot be signed electronically and does not integrate with E-Verify (instead requiring E-Verify employers to type employees’ I-9 information *twice* – once on the Form I-9 and again in the E-Verify system). Employers will still need to fill out this Form I-9 and print it out on paper for signature.

Despite the clear improvements in the proposed form, it is nevertheless simply an improved PDF form. What American employers truly need is one accurate, reliable, fully-integrated electronic employment-verification system, not simply an improved way to generate millions of paper-based forms every year.

In CFGI and SHRM’s principles for reform for worksite enforcement (available on page 23 of our [guide to the U.S. immigration system](#)), we recommend the full integration of Form I-9 into an electronic verification system. We also recommend that USCIS promulgate a system which: preempts the complicated and conflicting patchwork of state worksite enforcement laws; uses state-of-the-art multidimensional, dynamic technology to accurately authenticate a new hire’s identity and safeguard against identity theft; provides safe harbor for employers who use the system in good faith; and provides a secure and efficient appeals process. All of these principles must be addressed to provide employers with an adequate and appropriately usable employment-verification system.

II. USCIS should engage with employers to compile best practices for electronic storage of Form I-9, as various sections of Form I-9 are completed at different times.

Since Section 2 of Form I-9 may be completed up to three days following the completion of Section 1 (and Section 3, if used, could be completed many years later), employers electing to retain I-9s electronically need robust systems to save forms, back them up, and keep them accessible electronically. This requires significant expense, IT systems, planning and ongoing training for employees responsible for completing the I-9 process. USCIS should engage with the employer community to compile best practices for how this can be best accomplished. Our members would be eager and willing to participate in this process.

III. Eliminate unnecessary instructions; clearly distinguish between instructions for employees and instructions for employers; remove misleading statement regarding documents that “reasonably appear to be genuine;” and provide clearer instructions for how employers should handle receipts.

The revised instructions for Form I-9 are 15 pages in length (compared to the current six pages of instructions). This tremendous increase is a continuation of a troubling trend at USCIS to significantly lengthen instructions for its forms rather than to simplify the forms themselves. (See, for instance, our recent comments on revisions to Forms [I-485](#) and [I-129](#) and their instructions.) In addition to being unnecessarily lengthy, portions of the instructions are simply confusing and should be revised to provide greater clarity. Specifically, we propose the following:

- a. As the instructions for each field are built into the PDF, eliminate the field-specific instructions from the primary instruction document and provide a separate way for those who complete Form I-9 by hand to find these instructions.**

Many of the directions in the full instruction document are field-specific and copied verbatim into the help boxes indicated by question marks on each field of the form. Other sections of the form contain dropdown boxes which limit how information can be entered, eliminating the need for much of the instructions. The following instructions can be eliminated from the full instruction document:

- Entering Your Employee Information (page 2)
- Attesting to Your Citizenship or Immigration Status (pages 3-4)
- Completing the Preparer and/or Translator Certification (pages 4-5)
- Document Title charts and field specific instructions for entering documents (pages 8-11)
- Entering Information in the Employer Certification (pages 11-12)
- Field specific instructions for completing Section 3 (page 13)

Eliminating these instructions would reduce the 15 pages of instructions to approximately six pages. We recognize that these instructions must be made available for those who choose to fill out Form I-9 by hand. We recommend that a separate document be created with field-by-field instructions for those who need them, and that a link to those instructions be provided in the primary instruction document.

- b. Provide distinct sections with “Instructions for Employees” and “Instructions for Employers.”**

The current instructions are divided by Section of Form I-9 but, for those not thoroughly trained in using the form, it is not readily apparent which section must be filled out by whom. We recommend providing a clear division in the instructions between “Instructions for Employees” and “Instructions for Employers.” “Instructions for Employees” should begin with “Completing Section 1: Employee Information and Attestation” on page 2; “Instructions for Employers” should begin with “Completing Section 2: Employer or Authorized Representative Review and Verification” on page 6.

We also recommend clarifying the first sentence of the General Instructions (page 1) by replacing it with the following: “Employers and employees are responsible for completing their respective sections of Form I-9.” The sentence, as currently worded, creates the misimpression that employers and employees are somehow jointly responsible for completing the entire form, which is inaccurate; each is responsible for completing (and is permitted to complete) only their assigned portions of the form.

Additionally, we recommend eliminating the pronoun “you” throughout the instructions and replacing it with “the employee” or “the employer,” as appropriate. For instance, on page 5, under “Presenting Form I-9 Documents,” the first sentence should read, “Within 3 business days of starting work for pay, the employer must present...” rather than “Within 3 business days of starting work for pay, you must present...” (Note: Changing pronouns will be unnecessary if separate instructions are provided for employers and employees.)

- c. Clarify misleading statements regarding documents that “reasonably appear to be genuine”**

We recommend revising the second sentence, at top of page 6 of the instructions, to read: “If your document(s) reasonably appears to be genuine and to relate to you after asking any reasonable clarifying

questions, your employer must accept the document(s).” As it currently reads, the sentence is in conflict with agency guidance (available at [I-9 Central](#)) that the employer should ask the employee for a reasonable explanation and take other actions if there are certain questions pertaining to the document. For instance, for an employee who writes more than one last name in Section 1, but presents a document from the List of Acceptable Documents that has only one of those last names, the employer should ask for clarification and attach a memo to the Form I-9 to explain the discrepancy.

d. Provide clearer instructions for how employers should handle receipts

In the fifth paragraph of the subsection “Entering Documents the Employee Presents” on page 7, the instructions state that an employee who presents a receipt for a replacement document must present the actual replacement document within 90 days. However, the instructions do not instruct employers how to complete Section 2 of the form when receipts are presented. This has long been a point of tremendous confusion for employers and should be clearly addressed in the instructions.

IV. Revise the following fields on the proposed Form I-9 to ensure clarity

- Section 1
 - Help box for Last Name (*Family Name*) – Please add, for clarification: “Your last name is the name recorded on your birth certificate, marriage certificate, or legal document changing your last name.”
 - Employee’s Email Address and Employee’s Telephone Number – Please add “(optional)” to make it clear to employees that they are not required to provide this information.
- Section 2
 - *Certification* – The inclusion of the parenthetical “(State workforce agencies may omit the date the employee began employment.)” is confusing, both in terms of where it is placed and in the fact that it appears in the Certification section at all. The Certification already contains the notation “See instructions for exemptions” directly after the blank for the employee’s first day of work. We see no logical reason why the form should specifically list State workforce agencies as being exempt, but not list the other entities which are exempt (*i.e.*, recruiters and referrers for a fee). Furthermore, the instructions do not list State workforce agencies in the list of entities which are exempt from completing the blank for the employee’s first day of work. We suggest that the parenthetical be deleted from the Certification section and that “State workforce agencies” be added to the list of exempt entities on page 11 of the Instructions (under “Employee’s First Day of Employment”).

V. Correct highlighting errors when the “Click to Finish” button is clicked on an incomplete form

In testing the proposed form, we found various errors when the “Click to Finish” button is clicked on an incomplete form:

- The employee’s email address and telephone numbers in Section 1 are highlighted as needing completion, even though they are optional fields.
- All fields in the preparer/translator section are highlighted, even though most employees will not require a preparer or translator.

- If no documents are entered, all List A, List B and List C fields are highlighted, even though employers are only required to verify either a List A document or a combination of List B and List C documents.

VI. Develop a Spanish-language version of this Form I-9

Given the large number of workers in the United States whose first language is Spanish, and given USCIS has a Spanish-language version of the current Form I-9, we recommend that a Spanish-language version of this form be developed.

VII. Update Paperwork Reduction Act information to accurately reflect time required to complete Form I-9

The current Paperwork Reduction Act estimate for completing Form I-9, reported on the last page of the instructions, is 35 minutes to complete the form manually and 26 minutes when using a computer to aid in completion of the form. The 35 minute estimate is unchanged from the current Form I-9 and the 26 minute estimate is a new estimate. As the proposed instructions are 15 pages long (compared to the current six pages of instructions), it will take significantly longer – at least 2½ times longer – for employees and employers to read and understand the instructions, particularly if the form is completed manually. Therefore, at a minimum, the estimate for completing the form manually should be increased proportionately to the increase in the length of the instructions; given the extensive instructional prompts included in the proposed form, the estimate using a computer to aid completion should be likely increased as well.

CFGI and SHRM thank USCIS for continued opportunities to comment on issues of such critical importance to U.S. employers. We would be pleased to provide additional information and feedback at any time.

Sincerely,



Rebecca Peters
Director, Government Affairs
Council for Global Immigration



Nancy Hammer
Senior Government Affairs Policy Counsel
Society for Human Resource Management



OFFICE OF THE IOWA SECRETARY OF STATE

January 25, 2016

Department of Homeland Security
United States Citizenship and Immigration Services
Office of Policy and Strategy, Regulatory Coordination Division
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: Comment in response to Agency Information Collection Activities: EEV Form I-9 Revision (OMB 1615-00474)

Dear Director Rodriguez:

As Iowa Secretary of State, I am the official charged with maintaining Iowa's Safe at Home ("SAH") program. SAH is an address confidentiality program created to assist the survivors of sexual assault, domestic abuse and other violent crimes. By enrolling in the SAH program, these survivors take an important step toward reentering society without the constant fear of their attackers finding them.

The Iowa Legislature unanimously passed Iowa's SAH program, which Governor Terry Branstad signed into law in May 2015. SAH broadly resembles similar address confidentiality programs in other states. Minnesota Secretary of State Steve Simon has already submitted a comment (USCIS-2006-0068-0327) that urges your agency to enact measures to help protect SAH participants.

Iowa law directs that SAH provides and maintains a substitute address for participants' mail correspondence, and designates that address for government records and other purposes. The program requires that SAH participants' information, including their physical addresses, is confidential. While these laws hold promise for the SAH program, I share Secretary Simon's concern with the risk that comes with participants' physical addresses being exposed.

The proposed revision to the I-9 form affecting employees' report of address triggers a significant concern. To keep SAH and other address confidentiality programs effective, the I-9 form must accept SAH and similar addresses in place of employees' physical addresses. Realities of data storage and the resourcefulness of offenders demand keeping participants' addresses as confidential as possible. Increasingly, data breaches and employers outsourcing data to third parties exposes participants to the increased risk that offenders can find them. Forcing participants to reveal their addresses to complete the I-9 form undermines their safety.

I join with Secretary Simon in supporting the use of Safe at Home addresses on I-9 forms.

Respectfully,

A handwritten signature in cursive script that reads "Paul D. Pate".

Paul D. Pate
Iowa Secretary of State



AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

January 25, 2016

Laura Dawkins
Chief, USCIS, Office of Policy and Strategy
Regulatory Coordination Division
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Submitted Via: www.regulations.gov
Docket ID: USCIS-2006-0068

**Re: OMB Control No.: 1615-0047
Employment Eligibility Verification, Form I-9; Revision of a Currently Approved
Collection Program**

Dear Ms. Dawkins:

The American Immigration Lawyers Association (AILA) submits the following comments in response to the proposed revisions to Form I-9, Employment Eligibility Verification and the accompanying instructions, published in the Federal Register on November 24, 2015.¹

Founded in 1946, AILA is a voluntary bar association of more than 14,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. AILA's mission includes the advancement of the law pertaining to immigration and nationality and the facilitation of justice in the field. AILA members regularly advise and represent businesses, U.S. citizens, U.S. lawful permanent residents, and foreign nationals regarding the application and interpretation of U.S. immigration laws. We appreciate the opportunity to comment on this 60-Day Notice and believe that our members' collective expertise and experience makes us particularly well-qualified to offer views that will benefit the public and the government. We present these comments to note some significant legal and practical concerns with the proposed revisions to the Form I-9 and offer our suggestions as to how the proposal could be improved.

Summary

We commend USCIS for recognizing the role that technology can play in the increasingly complex Form I-9 employment eligibility verification process. Along with 15 pages of instructions, the proposed revisions to Form I-9 include a fillable form with helper and hover text, error messages, drop-down standardized lists, and data validation features which may help

¹ 80 Fed. Reg. 73200 (Nov. 24, 2015).

employers avoid errors. Unfortunately, the proposed revisions also contain a number of flaws that should be corrected before the fillable form and instructions are finalized and published. Without cohesive instructions and technical explanations of the fillable form process, employers utilizing the I-9 verification system may suffer damage as a result of the implementation of these revisions as currently proposed. The absence of sufficient explanatory information and supporting documentation leaves U.S. employers and stakeholders with questions as to whether the changes are necessary for the proper functioning of the agency, the accuracy of the agency's cost estimates, and the ultimate burden on respondents.

The proposed changes attempt to clarify and standardize the lists of acceptable employment authorization and identity documents that individuals may present during the I-9 verification and reverification processes. While we commend the agency's efforts, we note that some classes of individuals that are permitted to be employed are not included in the current regulations and we request rulemaking to ensure that all classes of authorized individuals and their acceptable documents be included. Specifically, we request rulemaking to include these omitted classes of employees in 8 CFR §274a.12 and to update the lists of acceptable verification documents at 8 CFR §274a.2(b)(1)(v)(A), (B), and (C).

The proposal should also be accompanied by proposed changes to the Form M-274 *Handbook for Employers* and I-9 Central that are referenced in the proposed instructions, as well as a supporting statement and a principal officer's certification. Without these materials, the public will not possess sufficient information to comprehensively review and comment upon the proposed changes. For the reasons set forth in these comments, we ask that a new 60 day comment period begin after these documents are made available and a Federal Register notice is published.²

The Proposed Changes to Form I-9 and the Accompanying Instructions Would Benefit from Full APA Notice and Comment Rulemaking, Proposed Changes to Supporting Guidance, and a More Comprehensive Review of the Estimated Public Burden

Passed in 1986, the Immigration Reform and Control Act (IRCA) made it unlawful for an employer, recruiter, or referrer for a fee to knowingly hire an unauthorized alien for employment in the United States and created penalties for employers who violate these provisions and/or fail to comply with the established employment verification procedures.³ The regulations, found in Title 8 Part 274a are divided as follows: **Subpart A**, (8 CFR §§274a.1-11), which sets forth the required verification procedures, including the lists of documents that are acceptable for establishing identity and employment authorization (commonly referred to as Lists A, B, and

² 5 CFR §1320.8 (d)(2)(i)-(2) If the agency does not publish a copy of the proposed collection of information, together with the related instructions, as part of the Federal Register notice, the agency should--(i) Provide more than 60-day notice to permit timely receipt, by interested members of the public, of a copy of the proposed collection of information and related instructions;

³ Act of Nov. 5. 1986, Pub. L. No. 99-603, codified at INA §274A(a)(1)(A).

C);⁴ and **Subpart B**, (8 CFR §§274a.12-14), which sets forth the classes of individuals that are authorized to accept employment.⁵

If implemented, the proposed changes to the I-9 and instructions would effectively revise the list of acceptable documents at 8 CFR §274a.2(b)(1)(v)(A), (B) and (C), the regulations at 8 CFR §274a.12, and an employer's responsibilities during the I-9 verification process. Changes such as this should be implemented only through full notice and comment rulemaking under the Administrative Procedure Act (APA) and should include a supporting statement and a comprehensive estimate of the public burden. Notice and comment rulemaking in this scenario is not without precedent. For example, Lists A, B, and C were recently changed through publication of a final rule to reflect the unexpired document rule created by the Illegal Immigration Reform and Immigrant Responsibility Act, with conforming changes to Form I-9.⁶ These changes, which are similar in scope to that which is proposed in the current notice, were significant enough to require APA notice and comment rulemaking.

Furthermore, we note at least one example of a proper List C document that is inexplicably omitted on the proposed Form I-9 and the List C regulation. As noted in the M-274 (at page 12) and on I-9 Central, a conditional permanent resident may present an expired permanent resident card along with a Form I-797 Notice of Action that indicates that the card is valid for an additional year. In addition, the List C page on I-9 Central, includes the following caveat regarding other permissible List C documentation:

Some employment authorization documents issued by DHS include but are not limited to the Form I-94 issued to an asylee or work-authorized nonimmigrant (e.g., H-1B nonimmigrants) because of their immigration status, the unexpired Reentry Permit (Form I-327), the Certificate of U.S. Citizenship (Form N-560 or N-561), or the Certificate of Naturalization (Form N-550 or N-570). A form I-797 issued to a conditional resident may be an acceptable List C (8) document in combination with his or her expired Form I-551 ("green card"). For more information about DHS-issued documents please contact customer support.⁷

Such inconsistencies can be avoided by providing an opportunity for full notice and comment rulemaking.

The notice indicates that the public has 60 days to comment with a January 25, 2016, due date and directs stakeholders to the Federal eRulemaking Portal site for the docket associated with this information collection. The docket contains only four documents: the proposed Form I-9; the proposed instructions; and a table of changes for both the form and instructions. However, the proposed instructions include 11 references to the M-274 *Handbook for Employers* and four references to I-9 Central, which, as we noted, include additional List C documents that are not

⁴ 8 CFR §274a.2(b)(1)(v)(A), (B), and (C).

⁵ 8 CFR §274a.12.

⁶ 76 Fed. Reg. 21225 (Apr. 15, 2011).

⁷ USCIS, I-9 Central, Form I-9 Acceptable Documents, located at <http://www.uscis.gov/i-9-central/acceptable-documents/list-documents/form-i-9-acceptable-documents>.

found in any other source.⁸ Moreover, the current M-274 was last updated in 2013 and does not reference the proposed fillable Form I-9 and its standardized fields or features. For these reasons, we request, in accordance with 5 CFR §1320.8 (d)(2)(i), that USCIS provide the public with a 60-day comment period to review proposed revisions to the M-274 and I-9 Central as indicated in the proposed instructions.

With regard to the public burden resulting from the proposed changes, the notice states the following:

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: The estimated total number of respondents for the information collection I-9 is 55,400,000 for employers and recruiters and referrers with an estimated hour burden per response is .33 hours; 55,400,000 for individuals/households with an estimated hour burden response of .17 hour; and 20,000,000 for record keepers with an estimated hour burden response of .08 hours.

(6) An estimate of the total public burden (in hours) associated with the collection: The total estimated annual hour burden associated with this collection is 29,300,000 hours.

(7) An estimate of the total public burden (in cost) associated with the collection: The estimated total annual cost burden associated with this collection of information is \$0.

This estimate should be compared to the August 2012 USCIS Supporting Statement for the most recent Form I-9 revision, which expanded the Form I-9 to two pages and required the employer and employee to complete new fields.⁹ Despite the complexities of the current proposed changes, USCIS has assigned the same estimated hourly burden (.33 hour for employers; .17 hour for employees; .08 hour for record keepers) as it assigned to the 2012 revision. The current proposed changes, which include a block for multiple preparers or translators and standardized fields for authorizing entities and verification documents, would seemingly place additional burdens or at least burdens that are different in scope from the changes that were proposed in 2012. In addition to the proposed changes to the M-274 and I-9 Central, we ask USCIS to provide a supporting statement setting forth a more detailed analysis of the public burden as compared to the estimated burden in August 2012, and allow 60 days for comment, consistent with 5 CFR §1320.8 (d)(2)(i).

RECOMMENDATIONS

The Instructions for the Electronic I-9 and Paper I-9 Must be Harmonized

Upon implementation, an employer may elect to complete a paper Form I-9 or complete an online Adobe fillable form.¹⁰ However, employers who lack the technology to complete the fillable form (particularly small employers and those who hire in the field), or who otherwise

⁸ *Id.*

⁹ USCIS, Supporting Statement, USCIS-2006-0068-0210 (Aug. 28, 2012).

¹⁰ We note that the agency used branded Adobe software but did not mention whether the final version of the fillable form would require the purchase of Adobe software to make it fully functional.

elect to utilize the paper form will not benefit from the additional instructions embedded in the fillable form's hover and help text boxes, error messages, and standardized lists. USCIS should take steps to ensure that the instructions for the paper form mirror the instructions included in the electronic form as closely as possible. For example:

- The pop-up instructions in the fillable form for the expiration date field include detailed instructions for recording the expiration date in Section 2, List A #1 and List C, and Section 3 when certain receipts are presented. These instructions are not clearly stated in the paper instructions, placing those employers who use the paper form at a disadvantage:
 1. For a receipt showing that the employee has applied to replace a document that was lost, stolen or damaged, employers are directed to enter the date that is 90 days from the first day of work for pay.
 2. For a receipt that is an arrival portion of Form I-94/I-94A containing a temporary I-551 stamp and a photograph of the individual, the employer is directed to enter the expiration date of the stamp or, if there is no expiration date, within one year from the date of admission.
 3. For a receipt that is the departure portion of Form I-94/I-94A with a refugee admission stamp, employers are directed to enter a date that is 90 days from the first day of work for pay.¹¹
- The fillable form provides a drop down list of states to indicate the issuer of a driver's license or identification card. However, users of the paper form may list "Department of Motor Vehicles" or similar and may fail to list the state of issuance. ICE/HSI investigators expect to see the state of issuance, but the instructions for the paper form do not indicate that the state is a required item.

The more detailed the instructions to the form become, the greater the number of minor errors that employers may make. Unless it is made clear that these errors are technical/procedural rather than substantive, the lack of standardization between proposed form instructions have the potential to create liabilities for employers who use the paper form.

The Instructions for E-Verify Employers Must be Centralized and Improved

Our concerns also extend to E-Verify employers, who are among the largest Form I-9 users.¹² E-Verify employers are subject to verification responsibilities beyond those imposed upon non-participating employers. Though the proposed instructions include references to E-Verify on pages 5, 14, 18, 20, 23, and 33, the instructions are not centralized, indexed or particularly easy to find. In addition, the instructions do not include:

¹¹ Table of Changes - Fillable Form, Form I-9, Employment Eligibility Verification Revision at 21 (Oct. 20, 2015), USCIS-2006-0068-0250 (posted 11/24/2015) (hereinafter "Table of Changes – Form").

¹² 48 CFR §22.1803.

- Information regarding employees who recently applied for a Social Security number.¹³
- Instructions to contact E-Verify Customer Support at 888-464-4218 if an employee is unable to provide a List B document that contains a photograph because of religious objections.
- Notice that the initial E-Verify inquiry can be submitted only after the employee's Form I-9 is complete.

In addition, if the employee presents a Form I-551 (Permanent Resident Card) or I-766 (Employment Authorization Document) for verification, the employer must make and retain a copy of the document to comply with the requirements of the Photo Screening Tool.¹⁴ In summary, the proposed versions of the I-9 and its instructions are insufficient for E-Verify employers.

The Anti-Discrimination Notice Fails to Contemplate the Receipt Rule and E-Verify Requirements

The anti-discrimination notice on page 1 of the proposed instructions contains the following language:

Employers CANNOT specify which document(s) they will accept from an employee when verifying an individual's employment eligibility. An employer must allow an employee to choose the documents to be presented from the Lists of Acceptable Documents, found on the last page of Form I-9.

This instruction fails to take into consideration the "receipt rule" which specifies that the employee must present the document the underlying receipt references at the time of reverification, as follows:

- Present the replacement document within 90 days of the hire or, in the case of reverification, the date employment authorization expires.¹⁵
- Present the Form I-551 by the expiration date of the "Temporary 1-551" stamp or, if the stamp has no expiration date, within one year from the issuance date of the arrival portion of the Form I-94 or Form I-94A¹⁶
- Present, within 90 days of the hire or, in the case of reverification, the date employment authorization expires, either an unexpired Form I-766, or a social security account

¹³ USCIS M-574, E-Verify User Manual for Federal Contractors §2.1 (Sept. 2012): "If an employee has applied for but has not yet received his or her Social Security number (i.e., if he or she is a newly arrived immigrant), make a note on the employee's Form I-9 and set it aside. The employee should be allowed to continue to work. Once the employee receives a Social Security number, you can create a case in E-Verify using the employee's Social Security number as soon as the Social Security number is available."

¹⁴ USCIS M-574, E-Verify User Manual for Federal Contractors §2.1 and 2.2 (Sept. 2012).

¹⁵ 8 CFR §274a.2(b)(1)(vi)(A)(3).

¹⁶ 8 CFR §274a.2(b)(1)(vi)(B)(2).

number card that contains no employment restrictions and other document described under paragraph (b)(1)(v)(B) of this section.¹⁷

In addition, under E-Verify rules, if the employee elects to present a List B identity document, it must include a photo.¹⁸ We suggest that the anti-discrimination notice be revised to reflect these common exceptions to the document abuse warning.

Instructions and Clarifications are Required for the “Additional Information” Block

The proposed fillable Form I-9 includes an “Additional Information” block found in Section 2 on page 2. However, USCIS does not adequately explain the purpose of this block nor does it provide complete and sufficient instructions for its use.¹⁹ Thus, we are concerned that this section as proposed will impose a significant burden on employers who will not be adequately apprised of its purpose and scope. Though the hover text box on the fillable form contains a brief explanation, the proposed instructions omit the following language (noted in italics) that is contained in the hover text:

Additional Information: Use this space to document additional information that is sometimes required for Form I-9, such as:

- Additional notations on Form I-9 to describe special circumstances, such as TPS ext., AC-21, 240-day ext., 180-day ext., 120-day ext.
- Information from additional document(s) that certain F-1 or J-1 nonimmigrant employees may present
- The E-Verify case number (*may only be added once Form I-9 has been printed and signed and an E-Verify case created*).

If none of these apply to your employee leave this area blank.

First, it is unclear whether the “additional information that is sometimes required for Form I-9” is the same as the Section 2 marginal notations required by the *Handbook for Employers* and whether this block should be considered the equivalent of the “margin” for the fillable form. USCIS should clarify this in the final form and instructions.

Second, we are concerned that this explanation will be a source of confusion for employers. The terms “TPS ext., AC-21, 240-day ext., 180-day ext., 120-day ext.” are not universally understood and employers who do not know what they mean will have difficulty knowing how and if to complete the Additional Information box. The proposed instructions should provide descriptive names, definitions, and instructions for locating information regarding these types of employment authorization extensions. More specifically:

¹⁷ 8 CFR §274a.2(b)(1)(vi)(C)(2).

¹⁸ M-274 *Handbook for Employers* at 5 (2013).

¹⁹ Table of Changes-Form at 32.

- The phrase “TPS ext.” reflects the automatic employment authorization extension for certain Temporary Protected Status (TPS) applicants.²⁰ There is nothing in the proposed form or instructions that would lead the public to further identifiers, its legal citation, or USCIS guidance as to what “additional information” is “sometimes required.”²¹
- The phrase “AC-21” is similarly undefined in the proposed instructions. Though it likely refers to the portability of certain H-1B employees, its identifiers and applicable guidance are missing as is any reference to INA §212(n).²²
- The term “240-day ext.” references the automatic extension of employment authorization for persons in certain nonimmigrant categories.²³ Such persons are permitted to continue working for the same employer for a period not to exceed 240 days after the expiration of their current period of stay, as long as a timely filed extension of stay is pending with USCIS. Its identifiers and applicable guidance are missing from the proposed instructions, as is the applicable legal authority.²⁴
- The term “180-day ext.” appears to refer to F-1 OPT STEM extensions. Its identifiers and applicable guidance are missing in the proposed instructions, as is a citation to the applicable legal authority.²⁵ While automatic extensions are referenced at 8 CFR §214.2(f)(10)(ii)(C), there is no reference in Lists A, B and C.
- The term “120-day ext.” likely references the automatic extension of employment authorization for persons in the H-2A nonimmigrant category. While authority for this can be found at 8 CFR §274a.12(b)(21), its identifiers and applicable guidance are missing from the proposal, as is a legal citation. The acceptable documentation that could support a 120-day extension is not mentioned in Lists A, B and C.²⁶

We also note that it is unclear how an employer should proceed with regard to entering the date of expiration for a List A document that has been automatically extended by USCIS as there is a conflict between the guidance referenced in the *M-274 Handbook for Employers* (which instructs employers to use the date of the expired document)²⁷ and the error message in the proposed

²⁰ 8 CFR §274a.12(a).

²¹ Moreover, the terms “TPS” and “Temporary Protected Status” do not appear in the M-274 Table of Contents and are not indexed, though we note that the explanatory information is found at page 13-14.

²² Additionally, the term “AC-21” does not appear in the M-274 Table of Contents and is not indexed, though we note that the information may be found at page 22 under the heading “H-1B employees changing employers (porting).” We also note that on December 31, 2015, USCIS published a proposed rule (80 Fed. Reg. 81900) to amend its regulations to implement the Administration’s policies with regard to employment-based immigrants and nonimmigrants. The USCIS proposed rule includes the H-1B portability provision enacted in the American Competitiveness in Section 105 Twenty-First Century Act of 2000 (AC 21) codified in INA § 212(n). See proposed 8 CFR §214.2(h)(2)(i)(H).

²³ 8 CFR §274a.12(b)(20). Effective February 16, 2016, the 240-day rule will apply to E-3, H-1B1 and CW-1 nonimmigrants. 81 Fed. Reg. 2068 (Jan. 15, 2016).

²⁴ Though there is no topical or Table of Contents reference for this phrase in the M-274, it is found in its text at page 23.

²⁵ There is no topical or Table of Contents reference for this phrase in the M-274, although it is found in the text at page 21.

²⁶ There is no topical or Table of Contents reference for this phrase in the M-274, although it is found in its text at page 22.

²⁷ *M-274 Handbook for Employers* at 21.

fillable Form I-9 that requires the employer to calculate a future expiration date.²⁸ Moreover, because the information in the error box would not be available to employers using the paper form, those employers would reference the M-274 and would enter the date of the expired document. It is important that the guidance be the same, whether the employer uses the paper Form I-9 or the fillable form.

Furthermore, though the list of special circumstances is not intended to be exhaustive, there are at least two other automatic extension provisions not mentioned that deserve reference in the instructions:

- **Cap Gap Extensions:** The “cap gap” extension was created in 2008 to automatically extend the authorized stay and OPT employment authorization for F-1 students who are the beneficiaries of timely filed H-1B petitions that have been granted or remain pending with USCIS.²⁹
- **Professional Athletes:** The 30-day automatic extensions for H-2B, P-1, and O-1 professional athletes who are traded were omitted from the proposed revision.³⁰

Lastly, the text states that the E-Verify case number should be listed in the “Additional Information” field. However, because E-Verify is so widely used, and because this information differs so vastly from the other contemplated uses of this field, USCIS should consider providing a specific field for the E-Verify case number, along with instructions stating when the number is required.

USCIS Should Create a Unified Process for Completing the Certification When Multiple Preparers or Translators are Utilized

According to the proposed instructions for the paper Form I-9: “Additional preparers and/or translators must complete and sign the Preparer and/or Translator Certification on separate Forms I-9.” However, when using the fillable version of Form I-9, the helper text states:

*If you used more than one preparer or translator, select the third box marked Multiple Preparers or Translators, then select the number of preparers and translators you used from the drop-down. The first preparer or translator will complete the certification on the page where the employee completed Section 1. **An additional page will open in the form where up to two additional preparers or translators can enter their information.** The employee’s last name, first name and middle initial will populate the top of the additional page. Please note that if you use this feature, a third page will print to include the additional preparers and translators.*³¹ (Emphasis added).

The paper and fillable form instructions are different in that the fillable Form I-9 creates an additional page with preparer/translator certification boxes so that there is no need for separate

²⁸ Table of Changes-Forms at 32.

²⁹ 8 CFR §214.2(f)(5)(vi)(A); 8 CFR §274a.12(b)(6)(v).

³⁰ 8 CFR §274a.12(b)(9), (13) and (14).

³¹ Table of Changes – Form at 21.

Forms I-9. USCIS should create a process for multiple preparers and translators to complete certifications using a single I-9, perhaps with an addendum, or should at least clarify the instructions to address the two conflicting processes for completing the form.

The Instructions Relating to the Preparer/Translator Section Are Incomplete and Inconsistent

Both the Form I-9 instructions as well as the helper text in the fillable form state:

Enter the street name and number of the current address of the residence of the person who helped the employee in preparing or translating Section 1 in this field.³²

The residential address of the preparer or translator should not be the only acceptable address. A preparer or translator who provides services as part of their occupation should be able to provide a workplace address. Requiring preparers and translators to record their residential addresses on Form I-9 may discourage some people from providing this valuable service.

Moreover, the helper text on the proposed fillable Form I-9 states:

If you did not use a preparer or translator, select the first box marked No Preparer or Translator. If you do this, all of the fields in this section will contain N/A. If you selected this box in error, select a different number of preparers or translators.³³

It is not clear whether the employee or the employer is responsible for the completion of this field. Given that this section appears on page 1, in Section 1, and precedes the instruction, “Employer Completes Next Page,” one would assume the employee is the person responsible for checking the appropriate box.³⁴ Assuming this is so, the instructions should explain this.

The instructions also reference the *M-274 Handbook for Employers* with regard to “Signature Instructions for Preparers, Translators and Other Individuals Assisting Employees in Completing Form I-9.” However, an updated version of the *Handbook* was not included in the docket and the current version of the *Handbook* does not make reference to the fillable Form I-9.³⁵

Criminal Penalties and the Use of an Attestation with Regard to Preparers or Translators, Is Not Supported by the Law

The proposed instructions include the following:

Signature of Preparer or Translator: Any person who helped to prepare or translate Section 1 of Form I-9 must sign his or her name in this field. By signing this form, you (the preparer or translator) attest under penalty of perjury (28 U.S.C. §1746) that you prepared or

³² *Instructions* at 5; *Table of Changes – Instructions* at 13; *Table of Changes – Form* at 24.

³³ *Table of Changes – Form* at 21.

³⁴ Form I-9 at 1.

³⁵ *Instructions* at 4; *Form I-9* at 1; *Table of Changes - Instructions* at 10.

translated this form on behalf of, at the request of, and with the express consent of the employee, that any information you provided is based only on responses the employee provided to you, that after completing Section 1, you reviewed and/or translated all of the information entered in Section 1 with the employee, who agreed with all the employee information entered in Section 1, and you are aware that you may face severe penalties provided by law and may be subject to criminal prosecution for knowingly and willfully making false statements or using false documentation when completing this form.³⁶

Similar language is contained on the PDF Form I-9 by clicking the helper text box next to “Signature of Preparer or Translator.”³⁷

We note that there does not appear to be any statutory or regulatory basis for a preparer or translator attestation, under penalty of perjury or otherwise, in the employment verification provisions under INA §274A or 8 CFR §274a.2(b). The statute and regulations only reference attestations by the “person or entity” that is hiring the employee and the employee completing Section 1.³⁸ Without a requirement for a sworn declaration, verification, certificate, statement, oath, or affidavit from a preparer or translator in the underlying statute or regulations, 28 USC §1746, relating to unsworn declarations under penalty of perjury, is not applicable and should not be referenced in the proposed instructions.

The proposed instructions also state: “If you serve as a preparer or translator and fail to sign your name in this field, you may be subject to criminal prosecution.”³⁹ This warning is made without any reference to a statute or regulation. In fact, we are unaware of any federal law that imposes criminal sanctions against an individual for failing to sign a form. Neither INA §274A nor the document fraud provisions at INA §274C impose such a requirement, nor does 8 CFR §274a.2(b).

The Proposed Fillable Form Contains Errors and Omissions, and USCIS Should Consider Additional Data Validation Features

The proposed fillable Form I-9 contains errors that must be resolved prior to implementation. For example:

1. The drop-down document list is incomplete. The receipt for replacement of a U.S. Passport, for instance, does not appear under List A as a drop-down option. The instructions and the drop-down list should be consistent.
2. The drop-down list for Social Security card issuing authorities lists the Social Security Administration and the Department of Health and Human Services but does not list the Department of Health, Education, and Welfare.

³⁶ *Instructions* at 5; Table of Changes – Instructions at 12.

³⁷ Table of Changes – Form at 22.

³⁸ See INA §274A(b)(1)(A) and 8 CFR §274a.2(b)(1)(i).

³⁹ Instructions at 5; Table of Changes - Instructions For Fillable Form, Form I-9, Employment Eligibility Verification Revision, USCIS-2006-0068-0249 at 12 (posted 11/24/2015) (hereinafter “Table of Changes – Instructions”).

3. The List C drop-down list omits an expired Permanent Resident Card with a Form I-797 Notice of Action reflecting a one-year renewal.

In addition, USCIS has provided for data validation in the fillable form. For instance, a warning is provided if the employee's Social Security number in Section 1 does not match the document number for a Social Security card in List C, page 2. A warning also appears if the document presented by the employee does not match his or her citizenship status.

USCIS should consider building in additional data validation features to improve the fillable Form I-9 experience. For example, given that permanent resident numbers are often incorrectly recorded and now appear only on the back of the card (and employers often only make copies of the front of documents), a warning message when the card number is not in the proper format is advisable. Warning messages when the expiration date of employment authorization listed in Section 1 does not match the expiration date of an Employment Authorization Document (EAD) would also be helpful, as would a message when the country of passport issuance or passport number in Section 1 does not match the related document field in Section 2.

Specific Comments on Completing Section 1: Employee Information and Attestation

Entering Your Employee Information⁴⁰

The instruction requiring employees to enter "N/A" where the information does not apply or where the employee chooses not to provide optional information (for example, in the "Middle Initial" and "Other Last Names Used" fields) should be changed so that other options are also acceptable. Employees may be accustomed to leaving these fields blank or using "None" instead of "N/A" where appropriate. The use of "N/A" is also not appropriate where an employee elects to not provide an e-mail address or phone number, as it is not the case that the question does not apply to the individual. In such cases, the employee should be permitted to leave the field blank.

The language "Once you print the Form" should be removed from the instructions for providing the employee's Social Security Number because this erroneously assumes that the employee will be printing the form.⁴¹

The instructions that state "The employer's e-mail address should not be entered in this field" should also be removed or replaced with: "You should not provide the e-mail address of another individual, such as your employer." The language as proposed could be interpreted to mean that the employee should not provide an e-mail address that is under the employer's domain and issued to the employee pursuant to his or her employment. If that interpretation was, in fact, the intent of these instructions, the language should be revised to clarify the same.⁴²

⁴⁰ Instructions at 2.

⁴¹ *Id.*

⁴² *Id.*

Attesting to Your Citizenship or Immigration Status⁴³

The instructions for “An alien authorized to work,” provide the same language three times:

Aliens authorized to work must enter one of the following to complete Section 1:

Alien Registration Number (A-Number)/USCIS Number; or
Form I-94 Admission Number; or
Foreign Passport Number and the Country of Issuance”⁴⁴

This section should be reorganized to present this language only once while providing the specific and necessary details for each of the three alternatives.

In addition, the information under the new subheading in the instructions, “Signature Instructions for Preparers, Translators and Other Individuals Assisting Employees in Completing Form I-9,” should be removed from the section “Attesting to Your Citizenship or Immigration Status” as the content of the subheading is confusing and more appropriately addressed in guidance for the preparer and/or translator in a separate section⁴⁵

Completing the Preparer and/or Translator Certification⁴⁶

The proposed form and instructions should be revised in accordance with the recommended changes referenced above. In addition, we note that the proposed Form I-9 states that the Preparer and/or Translator Certification is “[T]o be completed and signed if Section 1 is prepared by a person other than the employee.” A plain reading of this language suggests that no response is required in this section, even though a person who did not use a preparer or translator would be required to check the appropriate box indicating such.

Specific Comments on Completing Section 2: Employer or Authorized Representative Review and Verification

Entering Employee Information from Section 1

The instructions provide in part:

*When completing Section 2 of Form I-9 obtained from www.uscis.gov/formi-9 using a computer, enter the number that correlates with the citizenship or immigration status box the employee selected in Section 1. If you complete a paper Form I-9, leave this field blank.*⁴⁷

⁴³ Instructions at 3.

⁴⁴ *Id.*

⁴⁵ Instructions at 4.

⁴⁶ Instructions at 4; Form at 1.

⁴⁷ Instructions at 4.

This language and the related “Employee Citizenship Status” field in the proposed Form I-9 should be eliminated. While we understand that the number of the citizenship status block is automatically filled in for users of the fillable form, it would be improper for an employer who uses the paper form to be required to state the citizenship status of an employee. This is the employee’s responsibility and is made by the employee under penalty of perjury.

Should USCIS determine that the field should remain in Section 2, we suggest that the instructions be updated as follows: First, on the electronic version of the form, the instructions to Section 2 should indicate that the employee information at the top of Section 2 will prepopulate based on the information entered by the employee in Section 1. Second, the pop-up instructions for the citizenship status field indicate that the field should be left blank for reverifications and rehires, but this may not be clear to users of the paper form.

Lastly, we note that clear cooperation and guidance between USCIS and ICE/HSI is needed to inform employers which items in the employee information section may lead to fines if left incomplete or if completed in accordance with instructions that conflict with the fillable form.

Additional Suggestions for Improvement to the Proposed Form I-9 Instructions

We also suggest the following improvements to the proposed Form I-9 instructions:

1. In addition to full instructions for employers, an employee version of the instructions should be published to facilitate employee completion of Section 1 and the presentation of List A, B and C documents.
2. Instructions should be provided in the third person, so that it is clear to whom each instruction or directive applies (employee, employer, preparer or translator, etc.).
3. It is important that the Form I-9 instructions provide clear and unambiguous guidance to both employers and employees regarding the required timelines for Form I-9 completion and retention. The proposed instructions are inconsistent in this regard. For example:

Under the heading “**Completing Section I: Employee Information and Attestation**” (page 2), the instructions provide, “*You, the employee, must complete each field in Section 1 as described below. Newly hired employees must complete and sign Section 1 **no later than the first day of employment**. Section 1 should never be completed before you have accepted a job offer.*”

However, under the heading “**Completing Section 2: Employer or Authorized Representative Review and Verification**,” the instructions provide (page 6): *You, the employer, must ensure that all parts of Form I-9 are properly completed and may be subject to penalties under Federal law if the form is not completed correctly. Section 1 must be completed **no later than the end of the employee’s first day of employment**. You may not ask an individual to complete Section 1 before he or she has accepted a job offer. Before completing Section 2, you should review Section 1 to*

ensure the employee completed it properly. If you find any errors in Section 1, have the employee make corrections, as necessary and initial and date any corrections made.

Also, under the heading “**Presenting Form I-9 Documents**” (page 5), the employee's instructions provide: *Within 3 business days of **starting work for pay**, you must present to your employer documentation that establishes your identity and employment authorization. For example, if you begin employment on Monday, you must present documentation on or before Thursday of that week. However, if you were hired to work for less than 3 business days, you must present documentation no later than the end of the first day of employment.*

However, under the heading “**Completing Section 2: Employer or Authorized Representative Review and Verification**,” the instructions provide (page 6): *You or your authorized representative must complete Section 2 by examining evidence of identity and employment authorization **within 3 business days of the employee’s first day of employment**. For example, if an employee begins employment on Monday, you must review the employee’s documentation and complete Section 2 on or before Thursday of that week. However, if you hire an individual for less than 3 business days, Section 2 must be completed no later than the end of the first day of employment.*

Further in the instructions, under the heading “**Entering Information in the Employer Certification**,” the instructions provide (page 12), “*Employee’s First Day of Employment: **Enter the employee’s first day of employment** as a 2-digit month, 2-digit day and 4-digit year (mm/dd/yyyy). Recruiters and referrers for a fee do not enter the employee’s first day of employment.*

Lastly, under the heading, “Photocopying Blank and Completed Forms I-9 and Retaining Completed Forms I-9” (page 14), the retention requirements are outlined as follows: *Employers must retain each employee's completed Form I-9 for as long as the individual works for the employer and for a specified period after employment has ended. Employers are required to retain the pages of the form on which the employee and employer entered data. If copies of documentation presented by the employee are made, those copies must also be retained. Once the individual's employment ends, the employer must retain this form and attachments for either **3 years after the date of hire (i.e., first day of work for pay)** or 1 year after the date employment ended, whichever is later. In the case of an agricultural association or employer, or farm labor contractor that is a recruiter or referrer for a fee, the retention period is 3 years **after the date of hire (i.e., first day of work for pay)**.*

We suggest that all instructions set forth the complete “Thursday Rule,” as follows:

Within 3 business days of an employee starting work for pay, the employee must present to the employer documentation that establishes his or her identity and employment

authorization. For example, if the employee begins employment on Monday, he or she must present documentation to the employer on or before Thursday of that week.

The first day the employee starts work for pay is not included in the three business day calculation.⁴⁸ Further, we suggest that this language be expanded to state:

For example, if the employee's date of hire is on Monday, the employee must present documentation to the employer no later than the close of business on Thursday of that week. If the employee's date of hire is on a Wednesday and the employer is not open for business on Saturday and Sunday, the employee must present documentation no later than the close of business on Monday of the following week. If the employee's date of hire is on a Wednesday and the employer is open for business on Saturday and Sunday, the employee must present documentation no later than close of business on Saturday.

4. We respectfully request that USCIS confirm the following:
 - After the fillable form is released, employers who provide the Form I-9 and instructions to their employees in hard copy are fully compliant in meeting their obligation to provide the Form I-9 and instructions to its employees in the verification process.
 - Whether it is acceptable for the employee to complete Section 1 on the computer and print the form, and for the employer to complete Section 2 (and 3, if applicable) by hand on the hard copy form without inputting the information electronically.
 - Whether it is acceptable for the employee to complete Section 1 by hand and for the employer to complete Section 2 on a computer before printing and signing the form, and attaching the computer generated pages 2-3 to the hard copy page 1 that the employee completed.
 - Whether both the employer and the employee are allowed to each separately use a computer to complete and print their appropriate sections of the fillable form.
 - Whether an employer that provides the employee an online link to the Form I-9, has met its obligation to provide both the Form I-9 and instructions in full to the employee.
5. The written instructions should address the purpose, use, and creation of the “QR Code” in the designated space on pages 1 and 2 of the Form I-9.
6. We suggest that the “**What is the Purpose of This Form?**” section be eliminated as a separate heading entirely and the content moved under “**General Instructions**”

⁴⁸ USCIS, “What’s the Hire Date for E-Verify?” available at <http://www.uscis.gov>., accessed online on January 13, 2016.

beginning with the sentence “Both employers and employees are responsible for completing Form I-9.” Should this change not be implemented, please note that the instructions for Section 2 stating that “Photocopies must be retained and presented with Form I-9 in case of an inspection by DHS or another federal government agency” may be confusing given the prior statement that copies are voluntary. We suggest revising the instructions to state that “if made, copies must be retained and presented...”

7. The end of the proposed instructions (Page 14), “**Photocopying Blank and Completed Forms I-9 and Retaining Completed Forms I-9**” provides “Employers may photocopy or print blank Forms I-9 for future use. All pages of the instructions and Lists of Acceptable Documents must be available, either in print or electronically, to all employees completing this form.” We suggest that this guidance be expanded and moved to beginning of the instructions.

The Functionality of the Fillable Form

In addition to a careful review of the paper and fillable versions of the form, the hover and helper text, lists of acceptable documents, and the written form instructions, AILA members tested the functionality of the fillable I-9 form using scenarios familiar to our clients, both employers and employees. As a result, we offer the following observations:

1. The form’s data validation feature was helpful in requiring that the date of birth (DOB) be listed in the mm/dd/yyyy format. An error message appeared when we attempted to list the DOB as dd/mm/yyyy.
2. The form allows an employee to list a P.O. Box in Section 1. The instructions in the pop-up guidance indicating that a P.O. Box should not be used do not appear unless the employee clicks on the question mark to view the helper text.
3. The form allows an employee to list an ITIN or an SSN in the SSN field. It also allows an employee to leave the field blank, and no error code indicates that the field is required for E-Verify employers.
4. The form ensured that “N/A” was listed in unused fields. An error message appeared if it was left blank.
5. An error resulted if the “no translator” box was not checked. However, the heading of that section says to complete the field only if a preparer/translator was used.
6. Section 2, List A will not allow the employer to input an expiration date in the past. However, the M-274 states that the employer is to list the date of the student’s expired EAD together with the Form I-20 in Section 2 under List A of the Form I-9.
7. When the employer selects the EAD as a List A document, the form automatically populates the two additional boxes under List A with “N/A”. However, in the OPT STEM extension scenario, the employer must also populate List A with the employee’s Form I-20 (or similar documentation) as per the M-274 *Handbook*.
8. Many fields allow for unlimited characters and seem to provide no data validation. For documents such as an I-94 card, U.S. passport, permanent resident card, or EAD, it would be helpful if the system validated the number of digits in the document number and/or the correct format.

9. The system allows for obviously non-authentic SSN and phone numbers to be added.
10. The system allows the expiration date of the I-94 card in List A to be different from the one listed in Section 1.
11. We recommend that all fields allow for selection of “other” and entry of free text. Some fields allow this, and others do not. Because standard issuing authorities may change over time, free text allows for greater flexibility and lessens the need to update the form frequently.

Finally, we note that providing the Form I-9 on www.uscis.gov as a fillable PDF form accessible only via the most recent version of Adobe Reader may make it difficult for some employers to access, download and use the form. Certain employers may require specific versions of Adobe products to be run throughout their workplace. Other employers or employees may not have computer software compatible for installing Adobe Reader or updating to the latest Adobe Reader version. USCIS should provide an alternative to the fillable form format that permits the form to be opened, downloaded and made functional by a variety of applications so that public access to this important document is not unnecessarily impeded.

Conclusion

We thank USCIS for the opportunity to comment on the proposed Form I-9 and look forward to working with you and other stakeholders in making meaningful changes to this complex system.

Respectfully submitted,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION

United States Senate

WASHINGTON, DC 20510-2309

January 20, 2016

The Honorable León Rodríguez
Director
U.S. Citizenship and Immigration Services
111 Massachusetts Ave, N.W.
Washington, D.C. 20529

Dear Director Rodríguez:

I write to express my support for state address confidentiality programs (ACPs) and to request that U.S. Citizenship and Immigration Services (USCIS) make necessary revisions to the Form I-9, which verifies employment eligibility, to protect victims of crime. I am concerned that current Form I-9 requirements conflict with my state's goal of protecting the privacy of victims of stalking, domestic violence, and sexual assault and may ultimately facilitate further abuse. As you revise the Form I-9, I ask that you do everything you can to secure the confidentiality and safety of these survivors.

Over 30 states offer ACPs to protect survivors of domestic violence, sexual assault, stalking, and other crimes by permitting participants to use an agency-approved substitute address in place of their physical address on forms and applications. These programs ensure that offenders cannot use public records, such as voter or drivers' license registries, or other records and forms to locate victims. These programs also ensure that survivors can once again participate in everyday activities without the fear that their aggressor will be able to use this information to track them down. The protection of victims' information, especially their physical address, is paramount to preventing future harm and securing survivors' peace of mind.

Unfortunately, the current Form I-9 requires that individuals seeking employment disclose their physical address to their employer, which raises significant security and safety concerns for survivors of abuse and undermines the effectiveness of state ACPs. The collection of this information – and the knowledge that their location information could fall into the wrong hands – negatively affects survivors' sense of wellbeing and capacity to move forward in their lives following abuse. For many of these victims, the understanding that their home address is kept confidential can be key to starting a new job and establishing economic stability and independence. In light of these concerns, I ask that the USCIS make a simple change to the Form I-9 to allow individuals enrolled in address confidentiality programs to conceal their home address and instead use the ACP-approved substitute address.

I hope to work with you to protect survivors from further violence and restore their sense of security. As always, thank you for your consideration of my request.

Sincerely,

A handwritten signature in blue ink, appearing to read "Al Franken", with a long horizontal flourish extending to the right.

Al Franken
United States Senator

From: Sharon Mehlman <Sharon@mehlmanbarnes.com>
Sent: Monday, January 25, 2016 6:45 PM
To: USCIS FR Comment
Subject: comment to proposed I-9
Attachments: ABIL I-9 comment final.docx

The Alliance of Business Immigration Lawyers appreciates the opportunity to provide the attached comment to the proposed I-9 form; Docket ID USCIS-2006-0068. Thank you for your consideration.

Sincerely,

Sharon R. Mehlman
Partner & Attorney at Law
858.412.6300 | sharon@mehlmanbarnes.com



January 25, 2016

Laura Dawkins, Chief, Regulatory Coordination Division
United States Citizenship and Immigration Services
Office of Policy and Strategy
20 Massachusetts Avenue NW
Washington, DC 20529-2140

**RE: Employment Eligibility Verification, Form I-9; Revision of a Currently Approved Collection;
80 FR 73200 (11/24/15); Docket ID USCIS-2006-0068; OMB Control Number 1615-0047**

Dear Ms. Dawkins:

The Alliance of Business Immigration Lawyers (ABIL) is pleased to submit these comments regarding the proposed revisions to Form I-9 and appreciates the opportunity to do so. The Alliance of Business Immigration Lawyers is comprised of 20 of the top U.S. business immigration law firms, each led by a prominent member of the U.S. immigration bar. ABIL member firms employ over 250 attorneys (700+ total staff) devoted to business immigration in 25 major U.S. cities, plus 25 international cities. More information about our organization is available at www.abil.com.

While we believe there may be legal issues with the request for information, we are limiting our comments to the substantive legal and practical issues that arise from the new proposed form and instructions. With our comments, we are making the assumption that current existing guidance, (for example: in the M-274 Handbook for Employers and I-9 central) will be revised in conjunction with any changes to the form and instructions. It is our understanding that links or references to specific page numbers will be added to the finalized set of instructions and into any guidance provided. In any areas where the guidance with the proposed I-9 and instructions are inconsistent with E-Verify guidance, we will also assume that those changes will be made. Therefore, we have not specifically noted where revisions should be made in those documents. ABIL also believes that certain changes being proposed would require a regulatory change in addition to changing the form and instructions. We are making the assumption that USCIS would be amending the regulations as appropriate to support any form changes.

We appreciate that USCIS is using technology to assist employers. We had been hearing for several years that USCIS was working on a "smart I-9." However, we strongly urge USCIS to hold off with implementing any "smart I-9" until it is fully functional, in both English and Spanish. Employers have

struggled with imperfect forms for many years and will welcome a form that makes their lives more efficient. However, in its current state, the proposed “smart I-9” muddies the waters by adding many more areas where employers can make mistakes. It does not appear that USCIS has fully beta-tested the proposed fillable form and we encourage USCIS to do so to see the problems, both logistically and factually. When tested, we found a number of areas where the information/guidance was not clear or was not consistent with other guidance provided.

It is also critical that USCIS not make changes in a vacuum. There are various changes going on in the immigration arena and it is critical that any changes to the I-9 form wait until those are determined and/or implemented. (For example, a proposed rule is currently in the comment period that will make changes to use of the EAD for Form I-9 purposes.) Having new policies come out at the same time as a new form adds significant confusion for employers. Additionally, we would like to request that USCIS consider a grace period of at least 120 days after the new form is published, until employers are required to use it, to ensure that there is time for appropriate guidance and training.

We recognize the amount of time and resources that have gone into this project. We encourage USCIS to use the fillable form with its instructions as a training tool, to be made available to employers through I-9 Central, until full implementation can be made.

While we strongly encourage USCIS to wait to implement the form, we are providing these comments to the proposed documents. As USCIS’ focus is on employer compliance, our comments are also based on our experience working with and representing employers in compliance matters. Due to the number of proposed changes, we have organized our comments to follow the order of the instructions and the form. We will then discuss the issues addressed in the two additional documents provided by USCIS, regarding the list of changes to the form and instructions.

Proposed Instructions for Form I-9

We recognize that USCIS is trying to be as thorough as possible with providing guidance. However, fifteen pages of instructions (up from six) for a two-page form seems excessive. Providing that much information is more likely to cause confusion and makes it unlikely that employers and employees will fully review the instructions. We are also concerned that employers using the paper version of the form may be hesitant to print out and provide instructions as required in an effort to save paper. A two-page form should not be this difficult and require this many instructions. This is in addition to the instructions and guidance in the M-274 Handbook for Employers, which is almost 70 pages, and on I-9 Central.

We encourage USCIS to consider whether much of the additional pages of proposed instructions is superfluous in nature and might be pared down significantly in favor of more concise language. The instructions should provide a simple, easy to follow overview for most essential matters, with additional guidance available in the M-274 as needed.

Page 1: General Instructions

We appreciate that changes have been made to the form to allow for more efficiencies if used electronically, including drop down lists and additional instructions. The changes will likely assist

employees and employers in completing the I-9 form and hopefully eliminate some of the more common errors made. We do question why the same changes haven't been made to the Spanish version of the form. Even though the Spanish version of the form is only used in Puerto Rico, the Spanish version may be used for reference and translation purposes. In fact, many employers (especially those with a large Spanish speaking population) do that. The need for additional instructions and drop down features are even more needed by employees whose primary language is not English. Therefore, having the Spanish version available will allow for more compliant I-9s. And for those employers in Puerto Rico who are using the Spanish language version, it seems prejudicial that they won't have the same compliance opportunities by using this new form with the new features. Therefore, we urge USCIS to consider having the same changes made for both the English and the Spanish versions of the form before publishing the final version. If this is not possible, we request that USCIS set a time limit of no more than six months after publication of the new English version of the form to make the Spanish version available. Finally, we use this opportunity to suggest (as many have done before) to consider allowing the Spanish version of the form anywhere in the United States as Spanish speakers are growing exponentially every day in this country.

Page 1: Obtaining and Using Forms I-9

We understand that USCIS is trying to implement a "smart I-9" and that USCIS' ultimate goal is to assist employers with their I-9 compliance. We are concerned that the current proposed form seems to fall short in its goals and will only partially increase compliance. For example, the instructions state "Forms I-9 obtained from the USCIS website are not considered electronic Forms I-9 under DHS regulations and, therefore, may not be electronically signed." We urge USCIS to consider waiting to release this revised electronic form version until it contains tools that allow for a compliant electronic signature. We also urge USCIS to provide additional warnings and guidance to employers regarding retention of the forms after signature. Many employers are unclear regarding the current guidance on the use of a pdf document to save completed I-9 forms.

Requiring employers to still print out the electronic form and having employees/employers handwrite on it, is problematic and removes many of the efficiencies inherent in the use of an electronic form. In addition, much of the new guidance and safeguards are really only available for those employees and employers using the electronic version of the form. Realistically and practically, many people will still use the paper version. By then limiting the guidance for those using the paper version, you create two classes of employers. It is essential that the same instructions and guidance be provided to employers and employees, regardless of how the form is completed, if the goal is increased compliance. Realistically, based on the logistics, you will also have a class of employers whose I-9 forms are completed half on paper and half electronically, adding to the compliance concerns.

Additionally, the language in the last sentence of page 1, "You are not required to print, retain or store the page containing the Lists of Acceptable Documents..." may lead to confusion regarding the responsibility of the employer to provide the employee with all instruction pages. The Form I-9 indicates that "instructions must be available during completion of this form" and presumably the Lists of Acceptable Documents are part of these instructions. Therefore, we recommend that USCIS clarify this guidance.

Page 2: Entering Your Employee Information

Last Name (Family Name) and First Name (Given Name) - We request that USCIS review its guidance on how an employee should list his name if he has only a single name. The inconsistent guidance among the DHS agencies (including CBP, DOS, ICE and USCIS) causes a lot of confusion and concern. On the one hand, USCIS is advising employees to list their full legal name on the form. However, USCIS is then advising that if there is only one name, to place it in the “last name” field and list “N/A” in the “first name” field. This form is signed under the penalty of perjury. Therefore, we are concerned about the advice to an individual to incorrectly list their name if they believe that their one name should be their first name.

Middle Initial - if a person does not have a middle initial, the proposed instructions state to now enter N/A. This is a recurring theme in the new instructions. We urge USCIS to reconsider this as it is a significant burden on employers and employees when completing the form. In using the paper form, the entire form will potentially be filled with “N/A” which is not only unnecessary but will subject employers to potential fines by ICE. In the past, ICE has said that where the instructions to the form require specific action, they can then hold employers liable for the failure to follow it. We understand that in some instances, it makes sense to list N/A in a field (for example, where there is no expiration date) to show that a field wasn’t just overlooked. However, to list N/A everywhere where you don’t have information to provide seems unnecessary. In addition, the use of the abbreviation N/A means “not applicable” and in many cases, when a person chooses not to answer, the more appropriate answer would be “none”. Therefore, if USCIS insists on keeping the N/A requirements throughout the forms, we suggest that the guidance allow for the use of “N/A”, “none” or similar statements.

Other Last Names Used – we appreciate that USCIS is revising this field from “All other names used.” However, this section still needs more guidance. We request that USCIS provide information on how to complete the form if there is more than one last name that has been previously used. If someone has been married and divorced more than once, or has a hyphenated last name that is not always used, this is common. On the other hand, we also question the purpose of this field. It was our understanding that this field is helpful in determining identity and to review documents which may be in more than one name. It is not uncommon for people to have changed (or used different) first names and in some cultures, a first name is changed upon marriage. Therefore, if the purpose of this field is really to provide clarity, we encourage USCIS to consider whether this change from “All Other Names Used” to “Other Last Names Used” should be made.

Address – We ask USCIS to provide further guidance on this field. The proposed instructions advise employees to provide the “current address of your residence.” The term “residence” has various legal definitions which can add to the confusion. This is important because we would not want an employee to use an incorrect definition of residence on this form that could then be held against him in a tax or other legal context. In many cases, the Form I-9 is completed when a person is in a temporary living situation, for example, at a hotel or in temporary housing after relocating for a job. Therefore, we suggest that USCIS revise the guidance to state that an employee should list the address of where they are staying at the time that the I-9 is completed, even if it is temporary. In addition, we suggest that USCIS add a clarification that the address of the employer should not be listed in this field, as it is not uncommon for an employee in a temporary living situation to list the Employer address in Section 1.

Apartment Number – the instructions state to enter N/A if there is no apartment number. Again we strongly request that USCIS reconsider this N/A requirement as it is unnecessary and overly

burdensome. If a person leaves this field blank, the assumption should be that there is no apartment number.

U.S. Social Security Number – The Social Security Number (SSN) is voluntary except for E-Verify employers. While stated in the instructions, many employers are confused by this guidance as an SSN is needed for other employment-related purposes. We ask USCIS to consider stating on the face of the form (as was done in a previous version) that the SSN is voluntary.

If a person does not yet have an SSN, previous guidance was to leave this section blank and then, have the employee go back and complete Section 1 when the SSN was received. We strongly encourage USCIS to continue with this guidance and not make the proposed change. The proposed instructions state that if a person has applied for but not yet received an SSN and the employer is in E-Verify, the employee needs to handwrite “Applied for- In Process” on the form after printing. We ask USCIS to reconsider this requirement as overly burdensome and confusing. If USCIS really feels that it is necessary, then there should be a way to enter this electronically (at least on the electronic version of the form) as employers and employees are unlikely to remember after printing the form to go back and write this information in, as suggested in the instructions. However, regardless, USCIS has not provided any guidance as to what to do once the SSN is received. Is the “Applied for- In Process” to be crossed-out with the SSN written in? Also, since E-Verify cannot be completed without the SSN, it seems unnecessary to write in this statement for only a few weeks and seems more efficient for an employee to leave this field blank until the SSN is available.

Prior versions of the Form I-9 contained boxes for each of the nine digits of an employee’s social security number. These useful guides helped ensure that employees accurately and legibly completed the field for the social security number. The proposed Form I-9 does not contain these boxes. We strongly encourage USCIS to restore this feature on the Form I-9 as a useful deterrent to sloppy or illegible numbering when the form is completed on paper by the employee. This feature was particularly helpful to employers enrolled in E-Verify as accurate numbers are essential to avoiding un-necessary and burdensome Tentative Non-Confirmation Notices in the E-Verify system as a result of bad handwriting.

In addition, in testing the fillable form, it appears that there are not safeguards to ensure compliance. For example, the system will allow a clearly false SSN to be entered (111-11-1111). In addition, it will allow for an ITIN to be entered in place of a SSN. We understand that the system is not designed to communicate with the Social Security Administration and cannot determine a valid SSN. Nevertheless, we suggest that USCIS review the system requirements to ensure that obviously false numbers not be accepted. Finally, if the employer is in E-Verify, there was no warning that the field could not be left blank. This would only come to light if the employee had a question and clicked on the helper text.

Employee’s Email Address – the proposed instructions state to enter N/A if this field is not used. As this is a voluntary field, we ask USCIS to reconsider this requirement as it is unnecessary and overly burdensome. In addition, we ask USCIS to clarify the sentence “The employer’s email address should not be used.” This implies that the employee should use a personal email address (for example, Gmail) rather than their work email address. Is that what USCIS means and if so, why? An employee should be able to list any email address that he uses and that he wishes to receive correspondence. If USCIS means to say that the employer/HR contact’s email address should not be used in this field, we request that USCIS make the guidance clearer.

Employee's Telephone Number - the instructions state to enter N/A if this field is not used. As this is a voluntary field, we ask USCIS to reconsider this requirement as it is unnecessary and overly burdensome. In addition, there should be a system in place to prevent obviously false phone numbers from being entered. While the system is not designed to confirm a specific number, it should not allow (as it currently does) for the phone number to be listed as 111-111-1111 or something similar.

Page 3 - Attesting to Your Citizenship or Immigration Status

4. Guidance on **An alien authorized to work** – we commend USCIS for providing this clarifying guidance which was lacking in the previous I-9 instructions.

Alien Registration Number/USCIS Number – the instructions state to enter N/A if this field is not used. As this is a voluntary field, we ask USCIS to reconsider this requirement as it is unnecessary and overly burdensome.

We would like to commend USCIS on making a change to the current additional requirements for those employees who check box 4, Alien authorized to work. Many stakeholders have been very vocal about the issues regarding delays and concerns surrounding the electronic I-94 cards and we appreciate that USCIS is no longer making that a mandatory requirement, but instead an option. However, because individuals are now being given an option to provide the A number/USCIS number or the I-94 admission number or the passport information number and country of issuance, we request that USCIS reconsider requiring an N/A to be listed in the other two options that are not used. If only one option is required, then it is enough to have one filled in and requiring the N/A is overly burdensome and unnecessary.

We would also like USCIS to reconsider requiring the employee to complete a new field that specifies whether the employee is providing an Alien Registration Number or a USCIS Number in addition to listing the actual number. It appears from the proposed Form I-9 “pop-up” guidance and data validation features that this is only a requirement if the form is completed electronically. For example, the proposed Form I-9 now contains two lines for entries to the right of Alien Registration/USCIS Number for employees attesting to being a lawful permanent resident or alien authorized to work, but there is no reference in the instruction or on the form itself which specified that the employee needs to list whether the number provided is an Alien Registration Number or USCIS Number. Having different requirements based on the version of the form causes confusion for employees. If two lines are provided on the Form I-9 for this information, it doesn't make sense not to require it of employees who complete the form in paper. We suggest that this field either be removed or be required of all versions of the form, regardless of how the form is completed.

Page 4 – Date

Due to the requirement that the employee print the form and handwrite the date, the system then lacks a warning if the I-9 is completed late. The same issue will occur in Section 2 with the employer signature. We encourage USCIS to revise the system to allow for both electronic signature and date, to then provide these reminders/warnings. One of the biggest compliance issues is timely completion of the form, so adding this option will greatly assist in the goal of employer compliance.

Page 4- Completing the Preparer and/or Translator Certification

In our experience as attorneys, it is uncommon for there to be multiple preparers/translators. In fact, it is not that common to use the preparer/translator section in general. Therefore, we ask USCIS to reconsider requiring the employee to check the box stating that no preparer/translator was used. It is unnecessary and overly burdensome. If this section is blank, it can be assumed that one was not used. More importantly, this box is likely to be overlooked as the section states to only complete the section if a preparer/translator was used. If USCIS wishes to keep the box, it should be placed above the preparer/translator section.

In addition, we ask USCIS to provide further guidance regarding the new penalties for a preparer or translator. The failure for a preparer/translator to sign the form is currently a paperwork violation. However, under the new proposed instructions, it would be a criminal violation. While we understand the importance of wanting preparers/translators to take their job seriously, we are concerned that this added burden will discourage people from acting as preparers/translators and may cause employers to disallow its employees to act as the preparer/translator for other employees due to the added legal liabilities. In addition, we believe that a regulatory change would be required for this change.

Page 5 – Address (of preparer/translator)

It is not uncommon for a representative of the employer to act as a preparer/translator for the I-9 process if Section 1 is completed on the first day of work. We understand the need for information regarding the person acting as a preparer/translator. However, we ask USCIS to reconsider its new guidance requiring that the address listed on the form be that of the person’s residence. It is not uncommon, under current guidance, for the individual to list the employer’s address when they are working on behalf of the employer. The individual may not want their home address to be available to the employee and requiring this listing may dissuade a person employed by the employer (for example, an HR representative) to be willing to fill the role of preparer/translator.

Page 5 - Presenting Form I-9 Documents

We appreciate that USCIS has added additional information and clarification for employees. We ask USCIS to consider adding the following. In paragraph two, the last few sentences – it states “If you present List A documentation, you should not be asked to show List B or List C documentation. If you present a List B and a List C document, you should not be asked to show a List A document.” We agree with this guidance but it is not always a situation where the employer is asking for additional documents. It is a common occurrence where the employee provides documents in all three categories. Therefore, we suggest revising these sentences to read “If you present List A documentation, you should not be asked to show, and you should not provide, List B or List C documentation. If you present both a List B and a List C document, you should not be asked to show, and you should not provide, a List A document.”

Since USCIS is already providing guidance to explain an employee’s rights against over-documentation, we also suggest that USCIS add a sentence that states something similar to “Note that you should also not be asked to provide a document to confirm the box that you check in Section 1 regarding your citizenship or immigration status.” This is a good reminder for both the employer and the employee.

Page 6 – Receipts - There appears to be some additional information added to the instructions regarding reverification, which requires clarification. We understood from the prior guidance that the

employer must conduct reverification within 90 days after an employee presents an acceptable receipt. The use of a receipt often comes up with the initial completion of the I-9. However, the proposed instructions seem to say that in a case of reverification, the counting of the 90 days is from the expiration of the prior work authorization. Therefore, if the I-9 reverification is done in advance (ex. 30 days prior to expiration) then the employee actually has 120 days to provide the new document. Is this a correct understanding of the new guidance? We ask USCIS to clarify its guidance so that employers are able to calendar the correct dates and they are used to hearing about the use of a receipt for 90 days.

We also strongly encourage USCIS to consider how it provides guidance on receipts and the use of that word. Using plain language, an employer or employee often believes that all “receipts” are the same. However, in the I-9 context, USCIS is often using the term “receipt” to mean a receipt issued for a lost, stolen or damaged document under the 90 day receipt rule. Employers are then very confused when they read in one place that receipts in other contexts are not allowed, but in another place to use the I-797 receipt for a 240 day extension, in the AC21 portability context, or in a cap-gap or STEM OPT extension scenario.

Page 7- Entering Employer Information from Section 1

We would like to ask USCIS to reconsider requiring the employer to fill in a new field that confirms the employee’s citizenship status from Section 1. It appears from the instructions that this is only a requirement if the form is completed electronically and if not, the field is to be left blank. Having different requirements based on the version of the form causes confusion for employers and it is likely that they will wind up completing the field anyway. Logistically, unless both Sections of the electronic form are done at the same time, the information will not be able to transition over from Section 1 regardless.

In addition, if the purpose of the new field is to remind employers of this status when reviewing the documents in Section 2, again it doesn’t make sense to not require it of employers who complete a paper form. We suggest that this field either be removed or be required of all versions of the form, regardless of how the form is completed.

Additionally, the term, “citizenship status,” is a legal term of art that is potentially confusing an employer. It is foreseeable that many employers will simply mark “None” in this box rather than list the numbers associated with one of the four categories (Citizen, Non-Citizen National of the United States, Lawful Permanent Resident, or Alien Authorized to Work), particularly when the employee has not attested to being a U.S. citizen. We strongly recommend USCIS remove this un-necessary field.

Page 8 – List of List A documents

We would like to commend USCIS for providing this helpful guidance to employers as to how to appropriately list documents on the I-9 form. We believe this will significantly reduce the number of errors made in Section 2. However, we would like to ask USCIS to consider providing some leeway and suggest that an employer may use similar language. While the tables of instructions prescribing “What to Enter on Form” are helpful, the guidance therein appears to be inflexible and somewhat inconsistent with prior USCIS guidance and ICE enforcement policy on acceptable abbreviations. The language in the proposed instructions need to be revised to accommodate these prior permissible practices of

abbreviation. There may also be other times when more than one document name is legally correct and we do not want penalize employers for using one over the other.

In addition, we would like to ask USCIS to reconsider whether employers should be required to write both the document name and the form number in Section 2. If someone presents an EAD, that should be enough to satisfy the I-9 requirements, and the employer should not also need to write “Form I-766.” The same logic applies to the use of a Permanent Resident Card and requiring the use of “Form I-551” in addition. To require both is confusing and overly burdensome to employers as they rarely, if ever, refer to documents by the form number. In addition, in the case of an older Permanent Resident Card, which may be called an “Alien Registration Card”, it appears that USCIS is suggesting that the term “Alien Registration Card” not be used. We request clarification on that point.

Page 9 – Expiration date

In the proposed instructions, USCIS is requiring that any time a document does not have an expiration date, N/A be written. The reasoning is that only unexpired documents may be accepted. However, for certain documents in List B or C where there is obviously no expiration date (ex. Birth certificate, Social Security card), we ask that USCIS reconsider requiring an employer to write N/A as it is overly burdensome and unnecessary.

Page 11 - List of List C documents

While we again commend USCIS for providing guidance, we would like to point out a few areas where we believe changes are required. For those providing a Social Security Card, we would like USCIS to reconsider requiring employers to write the word “unrestricted” in front of “social security card” on the I-9 form. This is overly burdensome and we believe, legally incorrect as the official document title is a social security card. As only an unrestricted card may be accepted, it is redundant to write that on the form and in fact, the official name of the document is a social security card.

We would also like to request that USCIS reconsider its guidance that several of the List C documents be listed by their form number, rather than their actual title. It is confusing and inconsistent with the way that other documents are listed on the I-9 based on the new proposed guidance. For example, if an employee provides a Certification of Birth Abroad, that should be what is written on the I-9 rather than requiring an employer to write only Form FS-545. If USCIS insists on using the form numbers, then we request that USCIS be consistent and require the document title and the form number, as it is doing with the List A documents. Being consistent is the best way to avoid confusion by employers.

If an employee presents “An employment authorization document issued by DHS – (List C #8), it is currently standard practice for the employer to write the name of the actual document being presented. For example, a Naturalization certificate. We ask USCIS to reconsider its guidance to write “Employment Auth. Doc (DHS)” on the I-9 form in this situation. If the employer does not copy documents for I-9 purposes, there is no way to tell in an audit what was actually presented and more importantly, if it appropriately fits within this category.

Page 11 – Additional Information

We would like to suggest that USCIS provide more guidance on the use of this field for the specific examples that USCIS is providing. For example, is this a suggested field or mandatory? May employers

still write in the margins if they prefer? What exactly should be written for the various scenarios listed? While USCIS is calling some of the scenarios “special circumstances” these are common every day occurrences for employers who have foreign worker employees. Therefore, clear guidance should be provided.

We do commend USCIS for coming up with a better solution than “writing in the margin” by adding this new field. However, we ask USCIS to reconsider the guidance that the E-Verify case number be listed there and allow employers to write the E-Verify number at the top of the I-9 form which is a common practice. Giving an employer the option to write the E-Verify number in this new section is fine, but it should not be a requirement. In addition, the current E-Verify guidance states that an employer either needs to write the E-Verify number on the I-9 form or attach the E-Verify printout. It is unclear if this new proposed requirement changes that E-Verify guidance.

Page 11- Entering Information in the Employer Certification

Employee’s First Day of Employment.

We noticed that the clarification added in the last version of the form, about staffing agencies, has been removed. Has USCIS changed its guidance about how to list a first day of work for those individuals? If an employer may still list the date that the employee became part of the work pool we request that this information be re-added to the instructions. If this guidance has been purposely removed, we ask that USCIS provide further clarification.

Page 12 – Employers Business or Organization address

USCIS appears to have added a significant change in this section. USCIS is now advising the employer with more than one location to use the “most appropriate address that identifies the location of the employer.” This is very confusing and we ask USCIS to provide further clarification as to what they are asking employers to do. Many employers list the main headquarters address of the employer on all I-9 forms and we are unclear if USCIS is now advising that this cannot be done.

Also, please see our comments below on Page 16 regarding another clarification to the Employer Address, which is not in the instructions.

Page 13- Block A- New Name

We appreciate that USCIS continues to provide guidance that the new name field is only necessary if Section 3 is already being used. However, we believe that adding an additional clarifying sentence similar to “For other notifications of a name change, unrelated to Section 3, an employer may, but is not required to, use this field.”

Block B- we ask that USCIS reconsider requiring employers to write N/A if Section 3 is being used but not for a rehire. It is overly burdensome and confusing for employers.

Page 14 – Photocopying Blank and Completed Forms I-9 and Retaining Completed Forms I-9

We notice that there is a new sentence regarding retention, which is not on the current I-9 instructions. It relates to agricultural associations or employers, or farm labor contractors that are a recruiter or referrer for a fee. The proposed instructions state that these employers must keep all I-9 forms for three years from date of hire and are not able to purge forms at the “one year from termination” mark.

Can USCIS please provide further clarification on this requirement for certain types of employers? In order to avoid confusion, we believe that all employers should be subject to the same retention requirements. If USCIS meant to refer to those employers with seasonal workers who may not terminate employees between seasons, this should be further clarified as many of those employers are not agricultural (for example, resorts, amusement parks, universities). If USCIS wishes to keep the language as is, we ask USCIS to provide a definition of an “agricultural employer” and whether these requirements then apply to all employees of that employer.

Page 15 - Paperwork Reduction Act

We find it ironic that the form has changed from a two-page form with six pages of instructions to a two-page form with fifteen pages of instructions. This is not a way to reduce paper or paperwork. Regardless, the time estimated to complete the form has not changed from the current form of 35 minutes, which includes reviewing the instructions. Considering that the instructions have almost tripled we find this to be highly unlikely and ask USCIS to provide justification as to how that can be a correct time estimate. We also ask USCIS to strongly consider whether the benefit of the added efficiencies outweigh the additional burden on employees and employers.

New Proposed Form I-9

To avoid confusion, we will not repeat those issues which were already addressed above regarding the instructions. However, we provide the following feedback regarding the new proposed form itself.

Page 1 - Stop signs and Employer Completes Next Page

Despite this added warning on the current form, employees still often complete parts of page two in order to be helpful. We suggest also adding a warning at the top of Page two stating that only the employer should be completing this section. With the electronic version of the form, we believe that the dangers are even higher that the employee will complete Section 2 so this additional warning would be helpful.

Page 1- Use of the “Start Over” Button

We would like to ask USCIS to clarify the use of this button on the electronic version of the form. We understand that the proposed form will not be electronically “submitted” to anyone. However, current guidance does not allow an employee (at least who completes section 1 of the form with the employer) to just throw out the form and start over. While we appreciate why USCIS has added this feature (as a convenience) we are concerned about its use in actuality.

There is also no safeguard regarding who may use the “start over” button. In the case of a preparer/translator (where they may not be liability), we ask that USCIS provide guidance over the use of this option.

Page 2 – Employee name from Page 1

Based on our discussions with employers, this is the most overlooked field on the current I-9 form. We strongly encourage USCIS to reconsider how it is proposing to revise the form. The fields are even less visible, fading into the overall text and will likely again be overlooked by employers. If the goal is compliance, we ask USCIS to place the fields in a clearly visible section of the form.

Page 2 - Employee citizenship status

According to the proposed instructions, this field is to be left blank if the form is completed manually. We suggest that this should be written on the form to avoid any confusion. Otherwise, an employer is likely going to complete this field. In addition, the instructions assume that the employee and employer are together when the form is completed and that the information from Section 1 will be automatically carried over.

Page 3 – List of Acceptable Documents

We would like to encourage USCIS to provide some examples of what can be used under List C, item 8. There is no official guidance in the instructions or in the M-274 this. Instead, examples are only suggested in an FAQ on I-9 central. This is especially important as the FAQs are subject to change and often do, without warning. For example: A Naturalization certificate is often presented by employees as a List A document (which is not acceptable) and it would be helpful for employers to know that it can be accepted as a List C document (according to the I-9 central FAQ). We are concerned about potential issues with Department of Justice, Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) where employers fail to accept a document that may be considered valid until this option.

Use of the Fillable Form - Ensuring Compliance

We would also like to suggest that USCIS beta test the fillable form as both an employee and as an “HR representative.” All guidance, under all scenarios, should be attempted. As attorneys who represent employers in these matters, we found the system to be a bit confusing in some places. Since the ultimate goal is compliance and USCIS has already put certain safeguards into place, we believe that others need to be added.

The following are a few examples from a test of the fillable form:

1. The fillable form allowed for the use of a PO Box in the address field. If the employee had a question about his address, he would have clicked the helper text and found that a PO Box can't be used. However, if he didn't click the helper text, that PO Box address would have appeared on the form and would be non-compliant. This is a recurring issue throughout the form as there is an assumption that someone will click on the helper text. However, it is more likely that people don't know what they don't know (meaning that they won't click on the helper text because they have no reason to think what they are doing is incorrect).
2. Many of the fields have unlimited character limitations. At least for certain fields, for example, when listing an I-94 card number, the system should know when there are too many digits. This is helpful because sometimes, an employer will use a visa stamp number rather than an I-94 card number. While we appreciate the flexibility of unlimited character fields, we ask USCIS if this makes sense for particular fields.

3. As mentioned already above, the system allowed for obviously false Social Security Numbers and phone numbers.
4. The system allowed for an expiration date in Section 1 to not match the expiration date of the document in Section 2 (for example, an I-94 card). There should at least be a pop-up warning if this occurs so that the employer can double check the information being provided.

As attorneys, we found the search for the appropriate document in all drop-down menus to be a bit confusing due to the extensive number of items within the lists. We believe that employers will be confused as well. This was due to the addition of the all of the options for receipts for each specific document as well as the use of several acronyms. For example, while the List of Acceptable Documents mentions 6 List A options, the drop down contains 17 items. In addition, the names of the documents in the drop down don't exactly match the List of Acceptable Documents. For example, if an employee is in H-1B status and provides an unexpired foreign passport with Form I-94, that is what the company representative will be looking for in the drop down. Instead, they need to know to pick "Foreign Passport. Work authorized nonimmigrant." We urge USCIS to re-review the information in the drop down menus and make them as clear as possible. We also ask USCIS to consider a better way to account for the use of receipts for lost, stolen or damaged documents. As stated previously, the use of the word receipt is confusing to employers and as listed in the drop down menus, employers may accept receipts inappropriately.

Table of Changes – Instructions for Fillable Form

To avoid confusion, we will not repeat any of the issues previously addressed above. However, we are providing comments on the additional document provided by USCIS.

Page 1 – What is the Purpose of this Form?

We are requesting clarification as to why the information about the prior use of the CNMI form from 2009 to 2011 was removed. This information is helpful to employers, especially when conducting a self-audit to ensure that the correct form version was used.

Table of Changes- Fillable Form

To avoid confusion, we will not repeat any of the issues previously addressed above. However, we are providing comments on the additional document provided by USCIS.

We encourage USCIS to provide practical and logistical guidance as to on how the electronic form would be completed. For example, is an employee likely to complete Section 1 on their own at home or at the employer's place of business? If at home, where/how would they save the form in order for it to be available to complete Section 2? If the employee completes Section 1 at home and prints it out (in order

to sign it), can the employer just complete Section 2 without having a completed Section 1 in the same format? If the employee is using the electronic form, how would an employee know to stop completing the form at the end of Section 1? Will the system automatically advise the employee to stop after Section 1? The system seems to be set up with the assumption that the employee and the employer representative will complete the form together, so that information can flow from one page to the next (at least with the electronic version). Realistically, this situation is going to be quite rare.

More importantly, we wanted to ensure that USCIS was aware of how many employers handle the I-9 process. Many technology employers, for example, conduct the onboarding process in large groups and with the use of iPads/tablets or where the employees are accessing the I-9 forms/instructions using their smart phone. We want to make sure that this fillable form is available and usable with those types of devices and does not require a PC.

Page 12 – helper text for A Lawful Permanent Resident

The purpose of the “helper text” is to assist employees and employers with the form. We understand that “green card” and “green card holder” are not legal terms. However, many employees and employers do not understand what Lawful Permanent Residency is. As a result, many LPRs often check the “Alien Authorized to Work” box. Therefore, we suggest saying something in this helper text that says something similar to “Note that this status is often referred to as a green card holder.”

Page 13 – Alien Registration/USCIS Number Selection Drop-down

The A number and the USCIS number are currently the same, and this is confirmed in several places. Therefore, it is confusing to require a new field to confirm whether the number being entered is the A number or the USCIS number. We suggest USCIS remove this required field to avoid confusion. If USCIS does not agree with this suggestion, then we ask that USCIS state on the form that if the two numbers are the same, that the employee has the option whether to list it as an A number or as the USCIS number.

Page 17 - 3-D barcode

The proposed instructions state that the information entered on the I-9 form will be readable by employers or the government through the use of QR code technology. We would suggest that USCIS provide instructions to employers on how to do this, or at the very least, a link to where employers can find the information. It does not seem reasonable to expect employers to learn how to do this on their own.

In addition, as there will still be certain areas of the form that may contain handwritten information, we ask USCIS to clarify how the technology would work and exactly what information will and will not be readable.

Page 17 - (Passport) Country of issuance

The Drop-Down information contains “all current countries recognized by the Department of State.” We are requesting guidance for employers on how to proceed if someone has a passport from a country that was previously recognized but is not currently recognized. Is there a drop-down option of “Other”?

Page 29 – Documents

We wish to commend USCIS for designing the system to not allow an employer to list a document in columns A, B and C. However, we request some clarifications on this section.

The system is designed to limit the documents based on the citizenship designation listed in Section 1 of the I-9 form. We want to clarify whether this new revision has been run past OSC. OSC has previously issued guidance to private I-9 software vendors that strongly warns against these types of limitations/restrictions on which documents an employee may present. While we understand that USCIS has “jurisdiction” over the I-9 form, an employer must still be concerned about ICE and OSC, both of whom are involved in the employment verification process. Has USCIS discussed this feature of the system with OSC and received their blessing? Is there any way for an employer to override the system if the documents are not inconsistent with the status?

Also, it appears that at least for the use of the electronic I-9 form, an employer must use N/A in List A if they use a List B & C document (or use N/A for B & C if they use a List A document). Is that required for the paper version of the form? It is not listed in the instructions and is overly burdensome and unnecessary. As an employer may not request a List A, B and C document, it should be assumed that the blank sections are N/A. We ask USCIS to reconsider this requirement.

Page 31 – Issuing Authority

We commend USCIS for providing the drop-down options regarding the issuing authority of certain document. It will alleviate some of the common problems (one of which is for employers to write “U.S. government”). However, this does seem to be a change from the prior guidance regarding the issuing authority. For example, for a U.S. passport, current guidance allows an employer to list Department of State, DOS, or National Passport Office, or “specific city” passport agency. This guidance implies that USCIS is stating that now, only Department of State is acceptable; is that correct? At least on the paper version of the form, we ask that USCIS clarify that all four of the examples above would be acceptable.

Page 35 – Issuing Authority drop down menu

We suggest that USCIS be consistent with how it lists certain agencies throughout the system. For example, US DOJ INS should be spelled out as the other agencies are and as this particular agency is elsewhere.

We also suggest that USCIS have an option for a text field under issuing authority (and frankly for all drop down menus) to allow for those cases where the option may not fit the scenario presented. We are concerned about requiring an employer to pick an option when none of the options may be appropriate. When someone presents a Voter Registration card for example, the system has a blank text box that allows the company representative to write in the appropriate city and state. Therefore, the system is already set up to allow for this in certain fields so we are just suggesting that it be expanded to all fields.

Page 39- Issuing Authority List B

The helper text explains that for the electronic application, you would use the drop down menu to pick the actual state that has issued a driver’s license. This should be clarified for the paper version. Right now, the guidance seems to say that you would write “Driver’s license issued by state/territory” rather

than listing the actual state. That is confusing and an employer may not realize that they are still required to then list the state in the issuing authority box.

Page 41 – Document Title List C

Further clarification is needed for this field. If you pick “Employment Authorization Document” how does an employer note which specific document was used? We suggest additional guidance on the types of documents that would satisfy this category and also a text box to allow for input of the actual document title.

Page 43- Issuing Authority List C

Many of the older social security cards were issued by Department of Health, Education and Welfare (HE&W). We notice that this is not one of the options listed in the drop down menu. We request that USCIS consider adding that and if not, provide guidance to employers as to how to note the authority for a card issued by HE&W.

Page 43- Employer’s Business Address

The information here is inconsistent with the form instructions. We had previously noted that the information from USCIS on multiple locations was confusing. However, the information in the error messages column is new and is not provided elsewhere. This is a significant change and if USCIS would like employers to follow it, it needs to be mentioned in the instructions.

The error messages column states that an employer “should list as their address, the address of the location where the employee will perform his or her job in the field.” We strongly disagree with this guidance and ask USCIS to allow the employer to determine their address based on HQ or location where the employee reports. The following are examples of where listing an employee worksite as the employers address would be problematic and legally incorrect.

- a. Employee is a telecommuter and works from his home
- b. Employee is a roving employee and works from one or a number of various client sites, none of which are owned or controlled by the employer
- c. Employer is a contractor and employee is placed on a long term assignment of a third party, which may not be determined as of the date of the I-9 completion.

In addition, following the guidance of USCIS, there is no clarification as to whether an employer needs to continue to update the address on the I-9 if the employee worksite changes over time (or any time after the initial hire). We contend that the I-9 is about work authorization for a specific employer and not for a specific work location. In the case of an audit by ICE, we are concerned that listing the information by worksite will be inconsistent with payroll records which are likely to list an employee by reporting location.

We would also like to note that the fillable form (when beta tested) requires that the employer representative note N/A in the new name and rehire sections, before they are able to complete a reverification. We encourage USCIS to revise the form so that this is not required. It is confusing as well as burdensome for the employer.

Conclusion

We commend USCIS for using technology and working to ensure greater I-9 compliance, and thank you again for allowing ABIL to provide this feedback. We strongly urge USCIS to hold-off on a revision to the I-9 form until the capabilities are fully functional and in addition, until the various proposed and related immigration proposals are determined. Finally we ask USCIS to consider working with stakeholder groups to determine the actual impact of some of the proposed changes including the use of the fillable form.

Respectfully submitted,

Sharon Mehlman, Chuck Kuck, Vince Lau, Loan Huynh, Robert Loughran

on behalf of

ALLIANCE OF BUSINESS IMMIGRATION LAWYERS

From: Hye Lam <hlam@balglobal.com>
Sent: Monday, January 25, 2016 6:01 PM
To: USCIS FR Comment
Subject: COMMENTS to the Form I-9 under e-Docket ID number USCIS-2006-0068;

Hello, I couldn't submit my comments through the electronic system as it ate up my comments and said there was an error. So, I am typing up this email for your team to review.

1. Often times the employee name at the top of page 8 of the form I9 is missed during the completion of section 2 or section 3 of the form I9. The Regulation currently doesn't clarify what the penalties and fines are during an ICE Audit for employers who may miss that field during the process. Please clarify, thank you.
2. When is it acceptable to document "N/A" not applicable on the form I9. The instructions to employee come in variations as to employees being required or can be input onto the section 1 of the form I9. Especially on the "Other Name" field, many new hires feel they can leave it blank since they don't go by any other name. However, the instructions on the form I9 state that they Must input "N/A" on that field. Please advise on the regulations to this matter as theirs currently not a strong argument as to why that field MUST require the N/A vs just leaving it blank if an individual doesn't go by any other name. Also, what are the penalties and fines in the event of an ICE Audit?
3. A clarification is required as to when the new hires must write their Foreign Passport information on the Alien Authorized to work field on the section 1 of the form I9. Currently it still confuses the employee and the employer when that field on section 1 must be documented. Maybe if we clarified that only new hires who present CBP electronically pulled I-94 must document their Foreign passport information, then that may help as many foreign nationals do travel in and out of the country. Also, if that field is left blank for individuals who are required to provide the information, what are the penalties and fines in the event of an ICE Audit.
4. Currently I-20 CPT documents for F1 cases are acceptable to use with the I-94 document under list C, but there is not another document field to input the I-20 information. Instead, some employers may document the I-20 information just underneath the last line of list C expiration field. Will there be a change to the fields for employers to correctly document the F1 I-20 CPT cases under list C field?
5. DS2019 for J1 cases are not able to document under list C as their issuance of the DS2019 is through their school official and not by DHS. There are times when the individual may not have their foreign passports. What guidance can we provide or what changes can be made to the form I9 to allow a bit more flexibility for these types of cases?

Warm Regards,

Hye Lam

From: Amy Beth Leasure - EEAC <aleasure@eeac.org>
Sent: Monday, January 25, 2016 1:42 PM
To: USCIS FR Comment
Cc: Rae Vann - EEAC
Subject: OMB Control No. 1615-0047; U.S. Citizenship and Immigration Services, Department of Homeland Security; Docket ID USCIS-2006-0068
Attachments: I-9 Comment Letter 01-25-2016.pdf

Dear Sir or Madam:

Enclosed for filing please find the comment letter of the Equal Employment Advisory Council regarding the U.S. Citizenship and Immigration Services' proposed changes to the Form I-9, as published in the Federal Register on November 24, 2015.

Thank you in advance for your consideration.

Kind regards,

-
Amy Beth Leasure
Senior Counsel
Equal Employment Advisory Council
1501 M Street NW | Suite 400
Washington, DC 20005
202.629.5608 (p) | 202.629.5651 (f)
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EEAC Training Courses, Web Workshops, 2016 Annual Meeting & Policy Conference and more – view our [Events Calendar](#) for additional information and to register today!

The Equal Employment Advisory Council (EEAC) is a nonprofit association of private sector employers dedicated exclusively to the advancement of practical and effective equal employment opportunity and affirmative action programs to eliminate workplace discrimination. EEAC does not provide legal advice. For advice regarding legal issues, members should consult legal counsel.

January 25, 2016

Submitted via email to USCISFRComment@uscis.dhs.gov

Ms. Laura Dawkins
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
20 Massachusetts Avenue, N.W.
Washington, DC 20529

**RE: OMB Control No. 1615-0047; U.S. Citizenship and Immigration Services,
Department of Homeland Security; Docket ID USCIS-2006-0068:
Comments of the Equal Employment Advisory Council on Proposed
Revisions to the Form I-9, Employment Eligibility Verification (80 Fed. Reg.
73,200 (November 24, 2015))**

Dear Ms. Dawkins:

The Equal Employment Advisory Council (EEAC) welcomes the opportunity to provide the following comments regarding the U.S. Citizenship and Immigration Services' (USCIS) proposed revisions to the Form I-9, as published in the *Federal Register* on November 24, 2015, at 80 Fed. Reg. 73,200.

As described in more detail below, EEAC commends USCIS for proposing improvements to the electronic Form I-9 and related instructions, which we believe will improve compliance by clarifying employers' and employees' obligations and reduce unintentional errors. At the same time, we have some recommendations for additional improvements that we believe will further assist both employees and employers in the form's proper completion. We offer both general comments, as well as specific recommendations that address the proposed changes by Section.

Statement of Interest

EEAC is a nationwide association of employers organized in 1976 to promote sound approaches to eliminating discriminatory employment practices. EEAC's members are committed firmly to nondiscrimination and equal employment opportunity as indispensable prerequisites to a fair and inclusive workplace. Our membership includes over 250 major U.S. corporations that employ millions of workers across the United States and worldwide. Not only are all EEAC member companies subject to the employment eligibility verification requirements contained in 8 U.S.C. § 1324a, the vast

majority of EEAC member companies also are major federal contractors subject to the mandatory E-Verify requirements imposed by Presidential Executive Order 13465.

As such, EEAC members have extensive practical knowledge and experience in completing the Form I-9, as well as a vested interest in ensuring that completion of the new Form I-9 is as straightforward as possible allowing for the least number of errors.

General Comments

EEAC commends USCIS for developing a “smart” electronic Form I-9 that incorporates functionality and assistance tools that we believe will help reduce the potential for technical errors by both employers and employees. In particular, we believe that the “hover” and “helper” text features, the error messages, and the drop-down lists of selectable items and calendars contained in the proposed form will serve to enhance compliance. EEAC also appreciates the inclusion of the new features that will allow users the options to print the form at any time, to link to the instructions from within the document, and to clear the form to start over.

Given that many large employers use an electronic version of Form I-9 that is built into the company’s own internal proprietary systems or that of a third party Form I-9 service provider, EEAC respectfully requests that USCIS clarify whether employers would be required to build out all or some of the new “smart” features, which may be complicated and time-intensive to replicate. If yes, and because any change in a generally applicable federal recordkeeping requirement can involve significant process and logistical issues for a large company, EEAC respectfully urges USCIS to allow sufficient time for employers to switch over to any revised I-9 form before it becomes effective.

Indeed, implementing the “smart” features into a proprietary version of the Form I-9 will require substantial modifications to an employer’s software, systems and processes. Moreover, any training materials and job aides designed for personnel with responsibility for managing the Form I-9 process will need to be revised and updated to reflect any changes to the instructions and the form itself. Accordingly, EEAC requests that employers be given a minimum of 180 days to implement any changes before a new Form I-9 goes into effect.

EEAC also commends USCIS for the expanded content and more user-friendly language contained in the proposed instructions to the Form I-9, which we believe also will help reduce technical errors by employers and employees alike. EEAC respectfully recommends that the instructions for completing the paper and electronic forms be consistent to the degree possible.

Similarly, EEAC requests that the paper version of the Form I-9 be updated to remain consistent with the electronic version of the form to the degree possible (outside of strictly electronic features, such as hover and helper text, error messages, QR Code,

etc.). This will enable employers who use both paper and electronic I-9 forms in their employment eligibility verification process to maintain consistent training programs regarding completion of the Form I-9, and help to minimize the potential confusion and error which may result from managing different forms.

With respect to USCIS' proposal to separate the instructions from the electronic Form I-9, EEAC recommends that employers using their own proprietary electronic systems be provided the option of whether to incorporate the instructions and Form I-9 into one link or separate links. EEAC also respectfully requests that employers be provided the option of providing employees with only the portion of the instructions that relates to the completion of Section 1. We are concerned that employees may be daunted by a 15 page instructions packet, and elect to complete the form without reviewing the instructions.

The proposed form now indicates in helper text that employees should mark "N/A" in various fields in particular circumstances, *e.g.*, if an employee does not have a middle name or does not live in an apartment. EEAC is concerned that employees completing a paper Form I-9 who would not have the benefit of this helper text may not properly mark N/A in appropriate circumstances, instead either leaving a field blank or otherwise indicating the inapplicability of the field. Accordingly, EEAC requests that if this change is implemented, that a missing "N/A" on a Form I-9 is not considered a violation or is designated as a non-fineable error when identified in an audit.

Section 1 – Employee Information and Attestation

EEAC commends USCIS for its attempts to clarify the information required for proper completion of Section 1. For instance, EEAC appreciates the inclusion of distinct fields for name information, clarifying that an employee only must record "Other Last Names Used (*if any*)," and specifying that the e-mail address and telephone number fields relate to the *employee's* contact information. We respectfully offer several recommendations for additional minor changes to further simplify the information requested and reduce the potential for errors.

First, EEAC appreciates USCIS' helper text clarifying that if an individual does not have either a first or last name, he or she should enter "Unknown" in the applicable field. However, because most EEAC member companies are subject to the E-Verify requirements imposed by E.O. 13465, we request that USCIS consider whether marking "Unknown" has the potential to create unintended risks for a Tentative Nonconfirmation (TNC) in E-Verify, since an employment authorization document of an individual with only one name may instead indicate "FNU," or "Family Name Unknown," as opposed to "Unknown."

In the address field, EEAC commends USCIS for including a message in the hover text that an employee may not provide a Post Office (P.O.) Box. EEAC

recommends that USCIS also include similar language in the error message that appears should an employee incorrectly enter a P.O. Box in the address field.

EEAC also commends USCIS for clarifying on the Form I-9 that an alien authorized to work “must provide an Alien Registration Number/USCIS Number OR Form I-94 Admission Number OR Foreign Passport Number to complete Section 1.” EEAC believes the inclusion of this language likely will help minimize technical errors, and help to reduce the potential for impermissible over-documentation. To further clarify, EEAC respectfully recommends that USCIS consider adding language to the effect that an employee must provide “*only one of the following*” of the applicable documents.

EEAC does have some concerns that the proposed “Preparer and/or Translator Certification” section may result in technical errors. The instructions state that the Certification is “[t]o be completed and signed if Section 1 is prepared by a person other than the employee.” However, the proposed form now contains checkboxes, including one which must be checked if no preparer or translator is used. EEAC believes this section may be overlooked by employees who do not use a preparer or translator, and thus inadvertently commit an error by failing to check the “No Preparer or Translator” box.

Accordingly, EEAC respectfully requests that USCIS delete the checkbox for “No Preparer or Translator” in the proposed Form I-9. As an alternative, EEAC recommends that USCIS substitute radio buttons for the “No Preparer or Translator,” “One Preparer or Translator,” and “Multiple Preparers or Translators” checkboxes, with the default radio button automatically set to “No Preparer or Translator.” In that event, EEAC also suggests that the actual certification section remain hidden, and only expand should either the “One Preparer or Translator” or “Multiple Preparers or Translators” radio button be selected. Finally, EEAC recommends that the “Signature of Preparer or Translator” and “Date” fields in the Preparer and/or Translator Certification be moved to the bottom of the section, to avoid the potential for confusion with the “Signature of Employee” field.

Section 2 – Employer Review and Verification

EEAC commends USCIS for inclusion of the “additional information” field to allow a dedicated space for employers to insert supplementary information that is sometimes required to be documented on the Form I-9, such as an E-Verify case number.

The proposed form now includes a field in Section 2 for “Employee Citizenship Status,” in which an employer must select from a drop-down tab a number from 1 to 4 that correlates with the title of the citizenship or immigration status box the employee selected in Section 1. In order to enhance compliance with this new requirement, EEAC recommends that the actual title of the citizenship or immigration status options appear in the drop-down tab, as opposed to merely the number.

Ms. Laura Dawkins
January 25, 2016
Page 5

Conclusion

On behalf of our 250 plus major corporate members, EEAC appreciates the opportunity to present our views on USCIS' proposed changes to the Form I-9. We respectfully urge USCIS to give serious consideration to adopting the recommendations offered in these comments in order to further improve the Form I-9 verification process in a manner that will ensure fewer errors in completion of the form while not overburdening employers or employees.

Please do not hesitate to contact me or any of the EEAC staff if we can be of further assistance.

Respectfully submitted,


Amy Beth Leasure (RLV)
Senior Counsel

From: Shaw Rebecca <rebecca.shaw@doj.state.or.us>
Sent: Monday, January 25, 2016 6:54 PM
To: USCIS FR Comment
Cc: Shaw Rebecca
Subject: OMB1615-0047/Oregon DOJ/USCIS-2006-0068
Attachments: JUSTICE -#7114367-v1-OMB_1615-0047__ACP.docx

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DEPARTMENT OF JUSTICE
CRIME VICTIMS' SERVICES DIVISION

February 8, 2016

Department of Homeland Security
United States Citizenship and Immigration Services
Office of Policy and Strategy, Regulatory Coordination Division
20 Massachusetts Ave. NW
Washington DC 20529-2140

Re: Comment in response to Agency Information Collection Activities: Employment Eligibility Verification Form I-9, Revision of a Currently Approved Collection [OMB Control Number 1615-0047]

Dear Director Rodriguez:

The Oregon Address Confidentiality Program (ACP) is housed within the Oregon Department of Justice, Crime Victims' Services Division. The ACP is a program for survivors of stalking, domestic violence, sexual assault and human trafficking who fear for their safety and the safety of their family members. The ACP assigns qualifying participants a legal substitute address in the form of a PO Box. In Oregon this PO Box can be used in place of the participant's physical address whenever an address is required. First class, registered and certified mail sent to the PO Box is forwarded to the participant's mailing address by the department, and all participants designate the Oregon Attorney General as their agent for legal process service. Oregon currently has over 2,700 active participants and over 700 households enrolled in the program.

The Division is writing to you in order to encourage changes to the current version of the I-9 form. The current form places Oregon ACP participants in vulnerable situations by not allowing them to use their designated ACP address when completing the form. The Crime Victims' Services Division requests that the Department of Homeland Security, Citizenship and Immigration Services consider modifying the I-9 Form to make it possible for ACP participants to use their designated address when completing the form. By allowing the ACP participants to use their designated PO Box when completing the form, participants will not be compromising their safety or the safety of their family members.

Respectfully,

Rebecca Shaw
Compensation Section Manager
Crime Victims' Services Division
Oregon Department of Justice



DEPARTMENT OF JUSTICE
CRIME VICTIMS' SERVICES DIVISION

March 9, 2016

Department of Homeland Security
United States Citizenship and Immigration Services
Office of Policy and Strategy, Regulatory Coordination Division
20 Massachusetts Ave. NW
Washington DC 20529-2140

Re: Comment in response to Agency Information Collection Activities: Employment Eligibility Verification Form I-9, Revision of a Currently Approved Collection [OMB Control Number 1615-0047]

Dear Director Rodriquez:

The Oregon Address Confidentiality Program (ACP) is housed within the Oregon Department of Justice, Crime Victims' Services Division. The ACP is a program for survivors of stalking, domestic violence, sexual assault and human trafficking who fear for their safety and the safety of their family members. The ACP assigns qualifying participants a legal substitute address in the form of a PO Box. In Oregon this PO Box can be used in place of the participant's physical address whenever an address is required. First class, registered and certified mail sent to the PO Box is forwarded to the participant's mailing address by the department, and all participants designate the Oregon Attorney General as their agent for legal process service. Oregon currently has over 2,700 active participants and over 700 households enrolled in the program.

The Division is writing to you in order to encourage changes to the current version of the I-9 form. The current form places Oregon ACP participants in vulnerable situations by not allowing them to use their designated ACP address when completing the form. The Crime Victims' Services Division requests that the Department of Homeland Security, Citizenship and Immigration Services consider modifying the I-9 Form to make it possible for ACP participants to use their designated address when completing the form. By allowing the ACP participants to use their designated PO Box when completing the form, participants will not be compromising their safety of the safety of their family members.

Respectfully,

Rebecca Shaw
Compensation Section Manager
Crime Victims' Services Division
Oregon Department of Justice



STATE OF MINNESOTA
Office of the Minnesota Secretary of State
Steve Simon

December 23, 2015

Department of Homeland Security
United States Citizenship and Immigration Services
Office of Policy and Strategy, Regulatory Coordination Division
20 Massachusetts Avenue NW
Washington, DC 20529-2140

Re: Comment in response to Agency Information Collection Activities: Employment Eligibility Verification, Form I-9: Revision of a Currently Approved Collection [OMB Control Number 1615-0047]

Dear Director Rodriguez:

The Minnesota Secretary of State serves as head of Safe at Home, Minnesota's address confidentiality program. I write to you as head of Safe at Home to comment on the proposed revisions to the Form I-9 and urge changes to the current version of the form. The current Form I-9 creates security vulnerabilities for participants in Minnesota's Safe at Home program because it prevents participants from using their designated Safe at Home address when completing the form. I urge the Department of Homeland Security, Citizenship and Immigration Services, to consider modifying the Form I-9 to make clear that Safe at Home participants can use their designated address when completing the Form I-9.

To understand why the current Form I-9 presents security concerns for address confidentiality program participants, it is helpful to understand how the Safe at Home and other address confidentiality programs function to protect program participants. Minnesota's Safe at Home program is an address confidentiality program for victims of stalking, domestic violence, sexual assault, and others who fear for their safety. The Office of Secretary of State assigns participants in the Safe at Home program a legal substitute address in the form of a P.O. Box. In Minnesota this P.O. Box can be used in place of the participant's physical address whenever an address is required. First class mail sent to the P.O. Box is forwarded to the participant's actual address by our office, and all participants designate the Secretary of State as their agent for legal service of process. If law enforcement needs access to the physical address of a program participant, Safe at Home staff are available at all times to provide the address in emergency situations.

All address confidentiality programs across the country operate similarly to Minnesota's Safe at Home program. Minnesota alone has over 2,000 individuals currently enrolled in the Safe at Home program, representing over 800 households. These numbers will increase as our program continues to grow over the next several years.

Prior to 2013, address confidentiality program participants were not prohibited from using the assigned P.O. Box when completing the Form I-9. However, in March of 2013, the Department of Homeland Security, Citizenship and Immigration Services, revised the Form I-9 to specifically prohibit the use of a P.O. Box in the address field. This change required disclosure of the participant's physical address even though the P.O. Box is the address confidentiality program participant's legal address. Providing a physical address is a serious safety concern for program participants, forcing them to disclose their physical addresses to numerous strangers. Considering that the purpose of the Form I-9 is to "to document verification of the identity and employment authorization of each new employee" (www.uscis.gov/i-9) and not to prove where the new employee resides, the requirement of these disclosures is unnecessary. Additionally, the address requirement on the form is inconsistent with the List of Acceptable Documents, which does not state that an acceptable document must contain the employee's current physical address. In Minnesota, and in other states with an address confidentiality program, participants use their P.O. Box address on all official documents (such as their driver's license or state identification card). Participants often use these documents to meet the document requirement for the Form I-9.

Minnesota is one of many states that assign a P.O. Box address to participants in their address confidentiality program. To be fully compliant with the Form I-9 requirements, Minnesota requests a revision to the form or instruction from your agency allowing participants in address confidentiality programs through the country to provide their assigned confidentiality program address on the Form I-9. Permitting address confidentiality program participants to indicate their assigned confidentiality program address on the Form I-9 is in the best interest of public safety.

I urge the Department of Homeland Security, Citizenship and Immigration Services, to allow participants in address confidentiality programs such as Safe at Home to use the P.O. Box when completing the Form I-9 so that they do not need to compromise their safety.

Sincerely,



STEVE SIMON

Minnesota Secretary of State