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Docket (/docket/USCIS-2006-0068) / Document (USCIS-2006-0068-0614) (/document/USCIS-2006-0068-0614) / Comment

PUBLIC SUBMISSION

Comment Submitted by John Flanagan

Posted by the **U.S. Citizenship and Immigration Services** on Jul 8, 2022

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Comment

I am restating and resubmitting my comment from April 2022. See attached file(s).

Attachments 1

USCIS-2006-0068-0477_attachment_1

Download (https://downloads.regulations.gov/USCIS-2006-0068-0622/attachment_1.pdf)

Comment ID

USCIS-2006-0068-0622

Tracking Number

l5c-upfs-34jh

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VIA ELECTRONIC SUBMISSION

April 5, 2022

RE: Docket No. USCIS-2006-0068, 87 FR 18377

I am an attorney in private practice who represents numerous work-authorized non-citizens in their immigration matters. I frequently find that employers are confused about what documents may be acceptable for I-9 verification, and I also want to provide some suggestions to prevent severe immigration consequences for non-citizens who unintentionally make false claims to U.S. citizenship.

LIST C OF ACCEPTABLE DOCUMENTS IS INCOMPLETE

First, List C of acceptable documents on page 3 of Form I-9 is incomplete. For example, DHS has recently announced that U visa holders who apply for adjustment of status may present their green card application receipt as a List C document. To correct this issue, I suggest amending the language in item 7 of List C to read:

"7. Employment authorization issued by the Department of Homeland Security on other than Form I-766, Employment Authorization Document.

For examples, see Sections 6 and 12 of the M-274 on uscis.gov/I-9-central.

The Form I-76, Employment Authorization Document, is a List A, Item Number 4. document, not a List C document."

WARNING ABOUT FALSE CLAIM TO U.S. CITIZENSHIP

Second, DHS should adopt language warning of the severe penalties of making a false claim to U.S. citizenship on Form I-9. To that end, I urge that DHS add the following language to be added to page 1 under the selection for "1. A citizen of the United States":

"WARNING: Falsely claiming you are a citizen of the United States, even unknowingly, has serious immigration consequences, including potentially making you deportable, inadmissible, or permanently ineligible for future immigration relief. Be sure that you are a citizen before checking this box, especially if you were born outside the United States."

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. Similarly, under 8 USC 1227(a)(3)(D), a noncitizen who falsely claims citizenship is deportable. To naturalize, a lawful permanent resident must have been admissible at the time of adjustment. 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. See Matter of Bett, 26 I&N Dec. 437, 437-38 (BIA 2014). Under current BIA precedent, these severe, and often permanent, immigration consequences can even be triggered if an individual mistakenly believes themselves to be a U.S. citizen. See Matter of Zhang 27 I&N Dec. 569 (BIA 2019).

Given the complexity of immigration law, it is extremely common for individuals to 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 even 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. Finally, individuals who were brought to the United States as very young children may have been kept in the dark about their immigration status, which under the current interpretation of the law does not shield them from the severe immigration consequences of a false claim to U.S. citizenship.

Providing a warning about the consequences of making a mistake is especially important in light of USCIS and EOIR's 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.

DECLARATION UNDER PENALTY OF PERJURY

Third, I strongly object to the new language on page 1, Section 1, of the proposed Form I-9, which reads "I attest, under penalty of perjury, that this information, including my selection of the box attesting to my citizenship or immigration status, is true and correct." Immigration law has been likened in complexity to the tax code. *See Castro-O'Ryan v. INS,* 821 F.2d 1415, 1419 (9th Cir. 1987). Therefore, it is entirely unreasonable to call on the average member of the public to attest to their immigration status with any degree of certainty, much less under penalty of perjury.

In fact, I have encountered numerous individuals who DHS detained for immigration removal (deportation) proceedings only to find that they were actually U.S. citizens by operation of law. If DHS cannot even reliably determine a person's citizenship and immigration status, it is not fair or reasonable to expect the average member of the public to do so.

DHS estimates 75,295,000 individuals will complete the Form I-9, 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 falsely claiming citizenship will preserve their eligibility for future naturalization. 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.

Yours Truly,

/s/ John F. Flanagan

John F. Flanagan

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PUBLIC SUBMISSION

Comment Submitted by Larry Schild

Posted by the **U.S. Citizenship and Immigration Services** on Jul 11, 2022

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Comment

I fully support John F Flanagan comments!

Larry D Schild

Comment ID

USCIS-2006-0068-0623

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l5h-0v53-r6sh

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Unrelated Comment Submitted by Christopher Tingus

Posted by the **U.S. Citizenship and Immigration Services** on Jul 11, 2022

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Comment

Submitted I90 last Nov...heard last on Jan4th update under review and now July and nothing since Jan 4th! chris.tingus@gmail.com

Comment ID

USCIS-2006-0068-0624

Tracking Number

l5h-0q0u-4hw3

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Comment Submitted by Anonymous

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Comment

Hello,

It has been very convenient to verify I-9's remotely. I hope that U.S. Citizenship and Immigration Services can make the remote verification standard before the current expiration of 10/31/2022.

Comment ID

USCIS-2006-0068-0625

Tracking Number

l5h-1gb2-5y36

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Comment Submitted by Lafayette County Enterprises, Inc

Posted by the **U.S. Citizenship and Immigration Services** on Jul 11, 2022

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It looks ok to me!!

Comment ID

USCIS-2006-0068-0626

Tracking Number

l5h-1npi-jhhe

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Comment Submitted by GryphonHR

Posted by the **U.S. Citizenship and Immigration Services** on Jul 11, 2022

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In Section 1 of the Form I-9 Proposed Revision dated July 8, 2022, if the employee attests to being "A noncitizen authorized to work until...", either the USCIS/A-Number, Form I-94 Number, or Foreign Passport Number and Country of Issuance is required. With this proposed revision, the Foreign Passport Number and Country of Issuance is combined in the same field. Could these two fields, Foreign Passport Number and Country of Issuance, be separate out in separate boxes in order to better facilitate the separation of this data? The elements are required to be sent to E-Verify, if applicable, and separating these out would facilitate a more streamlined experience for the employer to submit this information. If they can't be split, can guidance be provided in the instructions to articulate how the data should be entered so that there is consistency.

Comment ID

USCIS-2006-0068-0627

Tracking Number

l5h-2e2h-1joj

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Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 11, 2022

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Comment

Make remote verification permanent. Most employers have remote employees that can provide a digital scan of identification documents.

Comment ID

USCIS-2006-0068-0628

Tracking Number

l5h-2psv-71tf

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PUBLIC SUBMISSION

Comment Submitted by eli maroko

Posted by the **U.S. Citizenship and Immigration Services** on Jul 11, 2022

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Comment

In order to close an apparent gap in the list of permitted documents as will satisfy I-9 requirements for a new hire and the Employer's required viewing of an original EAD....
...if there is an error or typo on an EAD, the applicant can obtain correction of the EAD only by returning it to USCIS and waiting for reissuance of a corrected card. However, USCIS may require an extended time to complete the reissuance. In the interim, the applicant should be deemed to be employment-authorized but has inadequate evidence of that status since only a copy of the EAD (as also contained a typo or other some error) is available to be submitted to the Employer for viewing.

We understand that, even for an employer who has E-Verified the applicant (in a new hire situation) this would be insufficient to satisfy I-9 requirements and the hire will be delayed indefinitely. Can we do better to accommodate such a situation?

Comment ID

USCIS-2006-0068-0629

Tracking Number

l5h-43t8-emrq

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Comment Submitted by Heather Thomas

Posted by the **U.S. Citizenship and Immigration Services** on Jul 11, 2022

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Comment

I would like to comment that the form should continue to be verified remotely, indefinitely, with no obligation to see the forms in-person. Due to e-verify and advanced technology we have the ability to scan and upload the documents virtually with clear, detailed images, that should make determining someone's eligibility more efficient. While companies should make every best effort to determine someone's work authorization with the resources provided, it is ultimately the governments job to determine their eligibility and e-verify has been designed to confirm that.

Comment ID

USCIS-2006-0068-0630

Tracking Number

l5h-4lau-75ja

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Comment Submitted by accesso llc

Posted by the **U.S. Citizenship and Immigration Services** on Jul 11, 2022

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Comment

I would like to request that the I-9 form to continue to be completed remotely, indefinitely, with no obligation to see the forms in-person. Due to e-verify and advanced technology we have the ability to scan and upload the documents virtually with clear, detailed images, that should make determining someone's eligibility more efficient. The pandemic has changed the way the world works and it would be great if government processes reflect that change.

Comment ID

USCIS-2006-0068-0631

Tracking Number

l5h-5esj-otaj

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Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 11, 2022

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Remote inspection of documents would lessen the burden on many employers, especially if it is allowed regardless of whether the position is for a remote worker. Including the ability to review electronic documents, such as photos or scans of documents, should be a reasonable inclusion if the employer is enrolled in E-Verify considering the documents provided will return a TNC if they are adulterated or fabricated. It has been my experience that employer representatives examining physical documents will often not see the subtle differences in a forged document, such as a Social Security Card, and the E-Verify case is the only clear way to verify the validity and relation of the document(s) to the employee presenting the document(s).

Comment ID

USCIS-2006-0068-0632

Tracking Number

l5h-5n2z-jbpn

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Incomplete Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 11, 2022

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Comment

If someone using my social security number or State ID in your country it's a fraud I

Comment ID

USCIS-2006-0068-0633

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l5h-0khp-n3tm

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Comment Submitted by Vi Thorpe

Posted by the **U.S. Citizenship and Immigration Services** on Jul 11, 2022

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I am the I-9 Specialist for a large university with approximately 40,000 FT faculty and staff positions. The university hires approximately 10,000 people per year in FT and casual positions, many of whom are foreign nationals in 49 states and Puerto Rico. This function is managed by approximately six people plus a vendor. Virtual document processing, without recall to examine original, unexpired documents in person, would facilitate processing and bring the I-9 process into 21st century function.

Comment ID

USCIS-2006-0068-0634

Tracking Number

l5h-6i4l-z47s

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Comment Submitted by Florida Medical Clinic

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Comment

I believe we should be able to continue with remote processing of I9's permanently. It has not only been safe, but made for a much more convenient and seamless onboarding process for our new hires. We have been able to verify documents and with the use of e-verify can easily confirm work authorization.

Comment ID

USCIS-2006-0068-0635

Tracking Number

l5h-75ck-dzdw

Comment Details

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Comment

In regards to evalution #4, I would recommend the agency continue to allow Form I-9 to be completed electronically with no obligation to review employment eligibility documents in-person. Current technology allows for new employees to provide their verification documents electronically; the scans or pictures provided are legible, clear and detailed and easily retained as a record in the employer's HRIS. E-Verify provides an immediate report to the employer if the documentation provided is inconsistent with other records, which is a much more reliable method of determining adulterated, forged or fabricated documents than employer representatives physically examining documents.

Allowing employers who are enrolled in E-Verify to continue remote or electronic completion of the I-9 form without an in-person requirement allows businesses to substantially increase their hiring pool without the need to consider costs to the business to pay for travel or document delivery services. Permanently allowing this rule will also allow HRIS companies to invest in the technology needed to integrate with E-Verify and help employers better track and reverify employees on work visas and/or with expiring documents. Permanently allowing this rule will offer businesses predictability and allow the agency to keep pace with the private sector.

Thank you for considering these comments.

Comment ID

USCIS-2006-0068-0636

Tracking Number

l5h-87ga-953m

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Comment

I fully support allowing the I9 documents to be remotely verified for e-verify employers. With the technology available today we are able to view documents via webcam, receive clear color copies plus all new hires are submitted through e-verify. This saves on administrative burden, cost and should be a benefit for employers that participate in e-verify.

Comment ID

USCIS-2006-0068-0637

Tracking Number

l5h-8rfx-o4ml

Comment Details

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Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Comment

Remote verification of I9 supporting documents reflects the way business is done today - flexibly. Technology allows for high-quality images of documents, making fraud a non-issue. In addition, this approach is more inclusive to people with disabilities, a special concern as COVID variants continue.

Comment ID

USCIS-2006-0068-0638

Tracking Number

l5h-9xpf-elkj

Comment Details

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Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Comment

Hello - the world in which we now work has dratically changed over the past 30+years but the form I-9 process has remained the same. As noted in the document for this request, it is significant amount of labor hours and cost to manage this process. Now that we are more remote and there is technology to support electronic verification, I would encourage that you move to that as an option. Additionally, with e-verify there is a check point for the authorization to work in the US and perhaps as an option, you indicate you can opt out as long as you are part of e-verify. For those companies keeping paper forms and paper copies of documents think of the environmental impact to collecting that documentation. If you are an e-verify employer you must keep the documents and do not have the option not to manage copies. The form is complex and so is the documentation especially with visas and those with receipts waiting on EADs or other work auth documentation. You could even make a major change and have e-verify allow the employee to provide directly their information with employers being able to check a social security number, which we have to have to pay and employ someone, to verify the employee is an authorized individual. This would take away the burden placed on employers and utilize the government system already in place for verification of employment. While the latter option is a major modernization of the program - it may be something to strive for in the future if not ready to move forward now. A big win would be to allow digital completion of the I-9 process and leverage e-verify for verification. Thanks for considering modernizing an extremely dated and manual process.

Comment ID

USCIS-2006-0068-0639

Tracking Number

l5h-axu6-kqsk

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Comment Submitted by Oracle

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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I work for a large organization (100k+ employees) and we have two request that would make our Form I-9 Admin process go smoother. 1) ability for Admin to continue to verify employee documents remotely. A large population of our workforce is remote and we don;t see that changing in the near feature (next few years). 2) We are a large organization and environmentally friendly - all of our employees complete the Form I-9 online (not manually on paper). It would be beneficial if we could use pdf form - currently Dept of Homeland Security doesn;t allow for employers to use an updatable pdf version. So that means we have develop and recreate the form I-9 online vs. we could just have employees complete the delivered form if DofHS allowed for updatable to be used.

-Julie

Comment ID

USCIS-2006-0068-0640

Tracking Number

l5h-d8a7-87h3

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Comment Submitted by Anonymous

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Comment

Please continue allowing us to review and confirm I9 documents via remote sessions. The 3rd party agencies that do this for a fee are unreliable at best and expensive to use.

Comment ID

USCIS-2006-0068-0641

Tracking Number

l5h-f445-zhjr

Comment Details

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Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Comment

1. Please widen the "Signature of employee" & "Today's date" boxes as employees miss this a lot and forms have to be returned for signature & date quite often.
2. Also please remove the boxes that have been added in the "US Social Security Number" field on the "paper" version as the boxes are too small for a lot of employees handwriting.

Comment ID

USCIS-2006-0068-0642

Tracking Number

l5h-jxwp-x9m1

Comment Details

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Comment Submitted by Tamara Mendelson

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Comment

There is no need to revert to an in-person verification process, especially in a technological climate where tools like e-Verify, ID.me, etc. exist. Remote verifications have proven to be efficient and effective. Not only are employers not prepared to (and have not been provided sufficient resources to) complete in-person verifications for out-of-state and otherwise remote employees that have been hired over the past two years, but the few available solutions do not make sense.

Not all states permit notaries to verify I-9 documents. Even in ones that do, the supply of mobile notaries will likely not meet the demand once remote inspections end.

The result of this is that when completing the I-9 for new hires, employers will have to require the new hire designate an individual in their own life to verify the document as an authorized representative. This leaves it upon the employer to train this random individual on how to properly inspect documents, which can be a complicated and labor-intensive process, especially when communication with the authorized representative is not readily available or provided on time. Not only that, but this type of remote inspection process requires the employer to place their trust in a stranger to answer the form with integrity, which negates any advantage seemingly gained in the process of having the documents verified in person.

All in all, it's painfully evident that there is no significant advantage to the verifications being required to be

done in-person for remote employees. Not only is the likelihood that a fraudulent document will be missed essentially the same as it is with remote inspections, but it may even be more likely than remote methods to miss fraud given the way technology continues to improve (again: eVerify, ID.me, etc.). The burden on employers (and employees alike), on the other hand, would be monumental if I-9s from the past 2 years and those moving forward had to suddenly be verified in person, and this burden is not justified by any presumed benefit. Clearly, in-person verifications for remote employees are completely impractical and serve no utility to the agency.

Comment ID

USCIS-2006-0068-0643

Tracking Number

l5h-n47y-f7rr

Comment Details

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Comment Submitted by Anonymous

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Comment

Will employers be able to verify IDs by video on a regular basis? Our company is switching to fully remote work rather than going back to our physical work space. That means we can now hire anywhere in the US. How are we to be expected to verify IDs in person in state where we have no other employees? The world has changed.

Comment ID

USCIS-2006-0068-0644

Tracking Number

l5i-9ikt-5ccz

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Comment Submitted by K Jenson

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Comment

AS a legally blind person, I'd appreciate if the font could be bigger. Thank you.

Comment ID

USCIS-2006-0068-0645

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l5i-b8tv-jk24

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Comment Submitted by Jennifer S

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Comment

I much prefer the virtual document collection for the I9 verification. This has allowed us to still verify the documents and catch the folks who don't match still without the amount of excessive time required on the employee side. They seem to prefer the slower pace/not having to bring in their documents on the 1st day and then have to figure out where to keep them safe that day. I much prefer to take care of it prior to them starting as well so we can address anything we need to with more time.

Comment ID

USCIS-2006-0068-0646

Tracking Number

l5i-bo0q-7p9r

Comment Details

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Comment Submitted by Nicole Orth

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Comment

I am a HR Manager that has around 40 employees with 15 percent of the staff living in four states. The I9 process can be extremely cumbersome for those living in other states. Most freshly hired employees do not want to go have their information notarized by someone just so they can start a new position somewhere.

Please consider:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Comment ID

USCIS-2006-0068-0647

Tracking Number

l5i-dyff-x6ii

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Comment Submitted by Louise Brown

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Comment

I believe everyone should be able to get a chance at liberty and justice in America

Comment ID

USCIS-2006-0068-0648

Tracking Number

l5i-esjr-ottc

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Comment Submitted by Susan Decareau

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Comment

As the remote workforce continues to grow and becomes more permanent, I believe it is in the best interest to continue to allow remote verification of I9's. Many states such as California, Pennsylvania and Texas have made it more difficult for new hires to have their I9's verified by notaries due to confusion in what those states actually permit their notaries to do. It has become increasingly frustrating for both the employee and employer to comply with in person verification. It's a dated practice.

Comment ID

USCIS-2006-0068-0649

Tracking Number

l5i-f1af-mkpb

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Unrelated Comment Submitted by Mariah Skinner

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Comment

Update the payee on Mariah skinner social security and disability check and put my name Mariah skinner on the payee of my social security disability check

Attachments 1

B532A66F-7EE4-43AD-80F9-06BBC9C49FB0_Redacted

Download (https://downloads.regulations.gov/USCIS-2006-0068-0650/attachment_2.pdf)

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Unrelated Comment Submitted by Eyman Kalid

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haroomaya5679@gmail.com

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20220211_013208_Redacted

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Unrelated Comment Submitted by Bak Danso

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BAK danso birth mail address

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IMG_20220531_023045_Redacted

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Unrelated Comment Submitted by Beatriz Garcia

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Hola buen día mi solicitud es para solicitar empleo en su apreciable país y así salvar mi vida y la de mis 4 menores hijos ya qué corremos riezgo de muerte

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20180309_145314_Redacted

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Comment ID

USCIS-2006-0068-0653

Tracking Number

l5h-roua-nszi

Comment Details

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Jul 12, 2022

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

View More Comments 41 (/document/USCIS-2006-0068-0614/comment)

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Comment

As an administrative clerk for a PEO it is time consuming for both me and our payroll coordinators to have to constantly send back I9 forms to request the required 3 letter 10 digit document numbers for PRC and EAC cards. It would be extremely helpful to have this information included in the instructions for the I9 form. Also explaining that this number is different from the USCIS/Alien Registration Number that is required on page 1. Slightly larger boxes for the social security number would aid in legible written numbers so they are easier to read.

Comment ID

USCIS-2006-0068-0654

Tracking Number

l5i-jf9q-kyba

Comment Details

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PUBLIC SUBMISSION

Comment Submitted by In Staffing

Posted by the **U.S. Citizenship and Immigration Services** on Jul 12, 2022

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Comment

The remote form I-9 verification should be made a permanent practise with no obligation to see the forms in-person. Since employers are submitting details from the I-9 during e-verify that should make determining someone's eligibility unambiguous. Please do away with the in-person verification requirement.

Comment ID

USCIS-2006-0068-0655

Tracking Number

l5i-jnei-4d69

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PUBLIC SUBMISSION

Comment Submitted by Patrick Cole

Posted by the **U.S. Citizenship and Immigration Services** on Jul 13, 2022

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Comment

the I-9 is outdated and the requirements for it are archaic, a holdover from the immigration-paranoia of the Reagan-era. No I-9 Verifier is an expert in document forgery, nor are we expected to be. Let the documents be examined over email or video chat, or abolish the I-9 form altogether. the form is unnecessary and more than a little bit racist, given that the goal is to root out "illegal" workers, people of other nationalities who are just trying to do a job to survive and contribute to society.

Comment ID

USCIS-2006-0068-0656

Tracking Number

l5j-p1ic-tpww

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Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 13, 2022

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Comment

Please allow for the continued ability to verify employee documents remotely. With the huge rise in remote employees across the United States, it has become increasingly difficult to notarize documents in-person. Electronic collection of these documents saves both time and paper and makes the onboarding process smoother for employees. Remote employees will continue to disperse across the US and it will become increasingly difficult to review their documents, not to mention retroactively inspect the documents of employees who have been remote for the past two years because of COVID.

Comment ID

USCIS-2006-0068-0657

Tracking Number

l5j-ra95-62lt

Comment Details

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PUBLIC SUBMISSION

Comment Submitted by Ben Krisher

Posted by the **U.S. Citizenship and Immigration Services** on Jul 13, 2022

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Comment

I'm the HR Director for a multi-state company which employs 100+ people across the country, including in some hard-to-access locations (Alaska). Remote verification of I-9 identification documents has been a huge help for our business for a variety of reasons:

We were able to continue to hire while keeping our employees and new hires safe from COVID-19 exposure
We were able to save costs by not flying candidates in to our HQ when hiring them
We were able to consider candidates on a faster timeline due to the remote options

With today's telecommuting technology we are able to quickly and efficiently view and verify identification documents.

Remote verification of I9 documents is also beneficial for workers and candidates who have disabilities which make it difficult to report to a workplace. This is an urgent need given the ongoing effects of COVID-19 on many people.

I strongly urge the USCIS to make remote verification of I9 documents permanent as a way to modernize the process, make it easier for businesses to operate in multi-state jurisdictions, and provide equitable

opportunities for all workers.

-Ben Krisher, HR Director

Comment ID

USCIS-2006-0068-0658

Tracking Number

l5j-rsrp-sdtn

Comment Details

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Comment Submitted by Richelle Kranc

Posted by the **U.S. Citizenship and Immigration Services** on Jul 13, 2022

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Comment

Hello - I would like to see the process stay remote. Thank you

Comment ID

USCIS-2006-0068-0659

Tracking Number

l5k-02wh-zduc

Comment Details

Received Date

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Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 14, 2022

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Comment

The remote I-9 document inspection should continue. The I-9 form is living in the 1900s with the requirement of in-person document review. With the technology of the 2000's, video calls work great! Furthermore, E-verify is designed to catch document issues that an average person reviewing documents would have no way of catching. Additionally, for non US citizens, the work authorization document issuers are so back logged that automatic extensions of up to 540 days is being granted. If a person wants to work in the US, let them work. There is an extreme labor shortage as evidenced by government agencies inability to renew documents timely. Let's bring the form I-9 up to the standards and technology of today!

Comment ID

USCIS-2006-0068-0660

Tracking Number

l5k-37p5-kb7k

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Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 14, 2022

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Comment

I am sending in this comment for the OMB Control Number 1615-0047, USCIS, Docket ID USCIS-2006-0068. As a business that has moved the majority of its 250 employees in the US to remote, a return to the old system of verifying ID for I-9 within 3 days of a new employee starting would add significant burden to our staff to ensure compliance.
In my personal opinion, the current methods of using video calls has worked well for our organization and caused no issues, we are able to verify documents via video call and written and signed affidavits. It has reduced our administrative burden and cost and ensured that we are able to remain in compliance in a straight forward way.
We would request to continue with the current I-9 process and make it a permanent change.

Comment ID

USCIS-2006-0068-0661

Tracking Number

l5l-510n-odg3

Comment Details

Received Date

Jul 14, 2022

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Comment Submitted by Winrock International

Posted by the **U.S. Citizenship and Immigration Services** on Jul 14, 2022

View More Comments 41 (/document/USCIS-2006-0068-0614/comment)

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Comment

I am sending in this comment for the OMB Control Number 1615-0047, USCIS, Docket ID USCIS-2006-0068. Pre-COVID, my company already operated in both a US office and US remote capacity. The old process was very burdensome and stressful for HR colleagues like myself for remote employees due to the 3 day deadline, as well as remote employees not understanding clear instructions and submitting I-9s with notary stamps, employees getting frustrated on having to spend time tracking down and trying to find someone in their area that was willing to complete on the company's behalf, and our leaders getting frustrated that this time consuming process was taking away valuable training time. Since 2020, my company now operates with the majority of its 250 employees in the US working in a full-time remote capacity and have greatly benefited from virtual-video capabilities to make the process less stressful and easier for both HR and the employee during their onboarding experience. A return to the old system of verifying in-person ID for I-9 within 3 days of a new employee starting would add significant burden to our staff to ensure compliance.

In my personal opinion, the current methods of using video calls has worked well for our organization and caused no issues, we are able to verify documents via video call and swiftly complete the Everify process within the required timeframe. It has reduced our administrative burden and cost and ensured that we are able to remain in compliance in a straight forward way.

We would request to continue with the current I-9 process and make it a permanent change. Thank you.

Comment ID

USCIS-2006-0068-0662

Tracking Number

l5l-6ycn-g38g

Comment Details

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PUBLIC SUBMISSION

Comment Submitted by Kalynn Morano

Posted by the **U.S. Citizenship and Immigration Services** on Jul 14, 2022

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Comment

Hello,
It has been very convenient to verify I-9's remotely and I encourage the U.S. Citizenship and Immigration Services to make remote verification standard before the current expiration date of October 31, 2022. In this remote work environment, now more than ever advancements to procedure and policy are essential.

Comment ID

USCIS-2006-0068-0663

Tracking Number

l5l-d38t-bntt

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 14, 2022

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Comment

I would like to see the I-9 verification process continue to allow for remote submission on documents permanently. This has made it easy and convenient for us to hire remotely and still be able to verify through e-verify with scanned documentation that is very clear with today's technology.

Comment ID

USCIS-2006-0068-0664

Tracking Number

l5l-hf6d-oif2

Comment Details

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Comment Submitted by Saban Capital Group LLC

Posted by the **U.S. Citizenship and Immigration Services** on Jul 15, 2022

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Comment

virtual continuation of I-9 verification will be critical to the smooth running of our business

Comment ID

USCIS-2006-0068-0665

Tracking Number

l5l-neaa-ma3n

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Comment Submitted by Kristine Bohrer

Posted by the **U.S. Citizenship and Immigration Services** on Jul 15, 2022

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Comment

Recommending remote I-9 verification process be implemented permanently.

Comment ID

USCIS-2006-0068-0666

Tracking Number

l5l-oqd9-ba2a

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PUBLIC SUBMISSION

Comment Submitted by Saban Capital Group

Posted by the **U.S. Citizenship and Immigration Services** on Jul 15, 2022

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Comment

This would create an undue hardship for our organizatino who is working in a fully remove environment since the pandemic. We recommend the remove verification process be implemented permanently.

Comment ID

USCIS-2006-0068-0667

Tracking Number

l5l-ppxg-93ui

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Comment Submitted by ROI DNA

Posted by the **U.S. Citizenship and Immigration Services** on Jul 18, 2022

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Comment

As we live in a very digital world, I think the in-person step is now extremely antiquated and inspected I-9 documents should be fully remote. The in-person requirement adds an unnecessary burden to HR/personnel reps at companies when all of this can and should be able to be done remotely. Especially if we use a combination of I-9s and e-Verify, there is no reason that a physical inspection should be required. I think extending the virtual inspection as long as possible is a great idea.

Comment ID

USCIS-2006-0068-0668

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l5r-1pry-3jrr

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Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 18, 2022

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Comment

Currently the I-9 instructions do not give specify how to enter a suffix when applicable. Could Section 1 include a field for a suffix.

Comment ID

USCIS-2006-0068-0669

Tracking Number

l5r-2564-vl20

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Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 18, 2022

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Comment

The I-9 instructions do not indicate if the employer participates in E-Verify the List B document need to have a photo. Could there be a statement on the list of acceptable documents to indicate this?

Comment ID

USCIS-2006-0068-0670

Tracking Number

l5r-2gai-ehj0

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 19, 2022

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Comment

I much prefer the remote verification of I-9 documents. It's much more efficient to have employees submit their documents ahead of their start date. If there are any issues, they can be resolved before their start date.

Comment ID

USCIS-2006-0068-0671

Tracking Number

l5s-caay-v7ni

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PUBLIC SUBMISSION

Comment Submitted by Kelly McNiff

Posted by the **U.S. Citizenship and Immigration Services** on Jul 19, 2022

View More Comments 51 (/document/USCIS-2006-0068-0614/comment)

View Related Comments 604 (/docket/USCIS-2006-0068/comments)

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Comment

In an increasingly remote first world, the continuation of virtual completions of I9s is crucial to the success of businesses. Especially when used in conjunction with E-Verify, why make employers pay for a third party service for I9 completion when the requirement could be virtual I9 completion + the use of E-Verify.

Comment ID

USCIS-2006-0068-0672

Tracking Number

l5s-kkxl-booi

Comment Details

Received Date

Jul 19, 2022

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 20, 2022

View More Comments 57 (/document/USCIS-2006-0068-0614/comment)

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Comment

1. Need Extension of minimum of additional 9 months to run the old I9 and new I9 in Parallel please advise on the extensions. Justification because we to update our software to meet the needs new format of the new I9.

2. Please note that we process over 900k Form i-9 for hundreds of customers per year. Our company does not use paper Form i-9, we process the Form I-9 electronically as we have a paperless workflow. The proposed Form i-9 has a huge impact on our current process. REQUEST to have separate Forms for separate sections like Section 1 and Section 2 when using electronic signature. Having multiple signatures on one page while using an Electronic signatures will present several technical challenges. For example, once Section 1 of the Form i-9 is electronically signed then you cannot add the data from Section 2 without breaking integrity of the first (employee's) signature. Previously this issue was resolved in our system as we were able to split the 2 sections (section 1 and section 2) on two separate documents. However now, with the new proposed Form I-9 this will not be possible if all electronic signatures need to be on one (1) document.

Comment ID

USCIS-2006-0068-0673

Tracking Number

l5u-2zro-4a1s

Comment Details

Received Date

Jul 20, 2022

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 20, 2022

View More Comments 57 (/document/USCIS-2006-0068-0614/comment)

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Comment

Need Extension of minimum of additional 9 months to run the old I9 and new I9 in Parallel please advise on the extensions. Justification because we to update our software to meet the needs new format of the new I9.

Comment ID

USCIS-2006-0068-0674

Tracking Number

l5u-32yy-8idq

Comment Details

Received Date

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 20, 2022

View More Comments 57 (/document/USCIS-2006-0068-0614/comment)

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Comment

Please note that we process over 900k Form i-9 for hundreds of customers per year. Our company does not use paper Form i-9, we process the Form I-9 electronically as we have a paperless workflow. The proposed Form i-9 has a huge impact on our current process. REQUEST to have separate Forms for separate sections like Section 1 and Section 2 when using electronic signature. Having multiple signatures on one page while using an Electronic signatures will present several technical challenges. For example, once Section 1 of the Form i-9 is electronically signed then you cannot add the data from Section 2 without breaking integrity of the first (employee's) signature. Previously this issue was resolved in our system as we were able to split the 2 sections (section 1 and section 2) on two separate documents. However now, with the new proposed Form I-9 this will not be possible if all electronic signatures need to be on one (1) document.

Comment ID

USCIS-2006-0068-0675

Tracking Number

l5u-33yk-5k6e

Comment Details

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PUBLIC SUBMISSION

Comment Submitted by Jack in the Box

Posted by the **U.S. Citizenship and Immigration Services** on Jul 21, 2022

View More Comments 57 (/document/USCIS-2006-0068-0614/comment)

View Related Comments 610 (/docket/USCIS-2006-0068/comments)

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Comment

It has been very convenient to verify I-9's remotely and I encourage the U.S. Citizenship and Immigration Services to make remote verification standard before the current expiration date of October 31, 2022. In this remote work environment, now more than ever advancements to procedure and policy are essential.

Comment ID

USCIS-2006-0068-0676

Tracking Number

l5u-9np8-xpvr

Comment Details

Received Date

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PUBLIC SUBMISSION

Comment Submitted by Linda Edwards

Posted by the **U.S. Citizenship and Immigration Services** on Jul 21, 2022

View More Comments 57 (/document/USCIS-2006-0068-0614/comment)

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Comment

As a Human Resources Professional, I have seen the trend for having remote employees has become normal for many employers. Due to the pure logistical and geographic obstacles now presenting with remote locations separate from the employer "offices", it makes sense to permanently change the I-9 regulations to allow electronic viewing of documents given.

Comment ID

USCIS-2006-0068-0677

Tracking Number

l5v-9aop-0gpr

Comment Details

Received Date

Jul 21, 2022

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PUBLIC SUBMISSION

Comment Submitted by Penny G

Posted by the **U.S. Citizenship and Immigration Services** on Jul 21, 2022

View More Comments 57 (/document/USCIS-2006-0068-0614/comment)

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Comment

I would like to eliminate the I9 document. We are presuming the documents they present are legit. It would be better to invest time/effort/money in the e-Verify system and require that all employees are processed this way. The I9 is maintained by the employer (in a book or file drawer) and unless an employer gets audited, we could have employees not eligible to work on the books for years because they presented fraudulent documents.

Comment ID

USCIS-2006-0068-0678

Tracking Number

l5v-dem4-m4jl

Comment Details

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PUBLIC SUBMISSION

Comment Submitted by Nevada County Superintendent of Schools

Posted by the **U.S. Citizenship and Immigration Services** on Jul 22, 2022

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Comment

Considerations for I-9 compliance. We are a county office of education and many county offices in California run a substitute consortium, where the county office is responsible for processing all new hire paperwork and then placing the new hire on a list for local school districts to use the person in their schools as a substitute employee. The county office is not the employer of record but rather, acts as a processing agency (or staffing or referring agency, if you would). The consortium model is successfully utilized in criminal background fingerprinting (as DOJ has approved this model) and county offices have been operating with this model for over 15 years. The consortium allows the county office to hire the individuals, collecting and maintaining all paperwork for the consortium agencies. Please consider this model for agencies that act as a consortium; allowing the agency to act on behalf of the employer; allowing an agency to complete I-9 forms for individuals referred for hiring at their consortium partners.

Comment ID

USCIS-2006-0068-0679

Tracking Number

l5w-vb47-dllw

Comment Details

Received Date

Jul 22, 2022

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PUBLIC SUBMISSION

Comment Submitted by Erica Thurman

Posted by the **U.S. Citizenship and Immigration Services** on Jul 26, 2022

View More Comments 59 (/document/USCIS-2006-0068-0614/comment)

View Related Comments 612 (/docket/USCIS-2006-0068/comments)

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Comment

As a Human Resources professional, given the significantly significant increase in remote workers since 2020, I would strongly support a change in Form I-9 process that allows for virtual inspection of supporting documents. Currently, the process for truly remote workers only allows for the use of an authorized representative. I feel much more comfortable with a company employee reviewing documents virtually than I do someone who has no connection to the company attesting on behalf of the company. This change in process would support the purpose of the Form I-9 much better than the use of authorized representatives. Thank you for consideration of this change.

Comment ID

USCIS-2006-0068-0680

Tracking Number

l61-8hwg-aun5

Comment Details

Received Date

Jul 25, 2022

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PUBLIC SUBMISSION

Comment Submitted by tammie llewellyn

Posted by the **U.S. Citizenship and Immigration Services** on Jul 26, 2022

View More Comments 63 (/document/USCIS-2006-0068-0614/comment)

View Related Comments 616 (/docket/USCIS-2006-0068/comments)

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Comment

As a Human Resources Professional, hiring remote employees has become normal. Due to the pure logistical and geographic obstacles now presenting with remote locations separate from the employer "offices", it makes sense to permanently change the I-9 regulations to allow electronic viewing of documents. We are not qualified fraud specialists - and would not recognize good fraudulent documents. Reviewing documents electonically vs in person does not provide any additional safeguard.

Comment ID

USCIS-2006-0068-0681

Tracking Number

l62-fb1j-fpx5

Comment Details

Received Date

Jul 26, 2022

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PUBLIC SUBMISSION

Comment Submitted by Wendy Siegel

Posted by the **U.S. Citizenship and Immigration Services** on Jul 26, 2022

View More Comments 63 (/document/USCIS-2006-0068-0614/comment)

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Comment

As a Human Resources Professional, the verification of identification documents should be made easier. There has been such a significant increase in remote workers since 2020, I would strongly support a change in Form I-9 process that allows for virtual inspection of supporting documents. Currently, the process for truly remote workers only allows for the use of an authorized representative. I feel much more comfortable with a company employee reviewing documents virtually than I do someone who has no connection to the company attesting on behalf of the company. This change in process would support the purpose of the Form I-9 much better than the use of authorized representatives. Thank you for consideration of this change.

Comment ID

USCIS-2006-0068-0682

Tracking Number

l62-o0hn-u73z

Comment Details

Received Date

Jul 26, 2022

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 27, 2022

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Comment

We are a fully remote employer, we do not have an office nor a centralized location where new hires can present documentation. Without the ability to verify I-9 information virtually we would have to only hire in cities that had someone who could complete an I-9 (and trust many with very sensitive information) or utilize it at a significant cost for us the third party to do so. It would be highly inconvenient for new hires (having to travel to meet an approved verifier) and would be a burdensome process for the organization (auditing would need to increase, error correction, risk of information being shared incorrectly, etc.) Bottom line it helps us hire individuals in places that we would have been reluctant to hire (eg. remote locations some with high unemployment rates) removes the cost and burden imposed by having someone physically see the documentation provided and we are able to ID mismatches or issues at the same rate as when done in person

Comment ID

USCIS-2006-0068-0683

Tracking Number

l63-1ocq-1r98

Comment Details

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Jul 29, 2022

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Comment

OMB Control Number 1615-0047, Docket ID USCIS-2006-0068

Thank you for allowing comment to the Proposed Rule (RIN: 1653-AA86), titled “Optional Alternative to the Physical Examination Associated With Employment Eligibility Verification (Form I-9).” I am an employee tasked with the project of ensuring I-9s completed virtually the past two years are verified in person. Below please find my personal comments on the proposed rule.

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

The collection of the I-9 and supporting documents is necessary for the proper performance of the functions of the agency. It is required that we verify employment eligibility. However, this documentation can be (and has been since the pandemic started) collected virtually using our secure staffing system (USA Staffing).

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Agree with the conclusion that alternative document examination would decrease administrative burdens.

With the increase in telework and remote work many orientations are being or can be handled virtually. Currently, the I-9 is the only document that must be verified in person. Allowing this form to be verified by utilizing a secure staffing system and scanned copies of identification documents would reduce the administrative burden on employees administering and completing new hire orientation.

Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Allowing the completion of the I-9 and collection of identity document electronically will minimize the burden of those collecting and reviewing the information. The form and documents can be uploaded by the new employee along with other new hire forms and can be reviewed by an appropriate IRS employee. As there is no training provided to government employees on how to recognize a forged identity document it is very rare that one is identified. In addition, new employees undergo background checks, fingerprinting, etc. which will also verify employment eligibility.

Attachments 1

87 FR 18377_Redacted

Download (https://downloads.regulations.gov/USCIS-2006-0068-0684/attachment_2.pdf)

Comment ID

USCIS-2006-0068-0684

Tracking Number

l5w-ea4y-n649

Comment Details

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Jul 22, 2022

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OMB Control Number 1615-0047, Docket ID USCIS-2006-0068

Thank you for allowing comment to the Proposed Rule (RIN: 1653-AA86), titled "Optional Alternative to the Physical Examination Associated With Employment Eligibility Verification (Form I-9)." I am an employee [redacted] tasked with the project of ensuring I-9s completed virtually the past two years are verified in person. Below please find my personal comments on the proposed rule.

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

The collection of the I-9 and supporting documents is necessary for the proper performance of the functions of the agency. It is required that we verify employment eligibility. However, this documentation can be (and has been since the pandemic started) collected virtually using our secure staffing system (USA Staffing).

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Agree with the conclusion that alternative document examination would decrease administrative burdens. With the increase in telework and remote work many orientations are being or can be handled virtually. Currently, the I-9 is the only document that must be verified in person. Allowing this form to be verified by utilizing a secure staffing system and scanned copies of identification documents would reduce the administrative burden on employees administering and completing new hire orientation.

Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Allowing the completion of the I-9 and collection of identity document electronically will minimize the burden of those collecting and reviewing the information. The form and documents can be uploaded by the new employee along with other new hire forms and can be reviewed by an appropriate IRS employee. As there is no training provided to government employees on how to recognize a forged identity document it is very rare that one is identified. In addition, new employees undergo background checks, fingerprinting, etc. which will also verify employment eligibility.

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PUBLIC SUBMISSION

Comment Submitted by Jennifer Garcia

Posted by the **U.S. Citizenship and Immigration Services** on Aug 1, 2022

View More Comments 66 (/document/USCIS-2006-0068-0614/comment)

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Comment

Most of our staff is now working at least partially remote. In order to verify I-9 in person, it's burdensome to schedule the employee to travel to HR to verify in person as our offices are located in different locations and often have remote schedules that do not coincide. An in person verification will also prohibit us from using workers that desire complete remote work or live far distances. In this job market, it's difficult to find staff and the ability to hire talent outside of our geographic area is vital.

Comment ID

USCIS-2006-0068-0685

Tracking Number

l6a-t34i-44ex

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Aug 2, 2022

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Comment

OMB Control Number 1615-0047 / Docket ID USCIS-2006-0068.

As a Human Resources Professional, I have personally seen the trend for having remote employees become normal for many employers. Due to the logistical and geographic obstacles now presented with remote hires it makes sense to permanently change the I-9 regulations to allow ongoing electronic viewing of documents provided. The use of notaries is unrealistic given the timelines and the technological systems do not exist for support of remote verification.

Comment ID

USCIS-2006-0068-0686

Tracking Number

l6b-flvx-1y97

Comment Details

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Aug 2, 2022

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Comment

The proposed Form I-9 presents a challenge for our company as we does not use paper Form i-9, we process the Form I-9 electronically as we have a paperless workflow. The challenge now will be fitting the varying lengths of data into the smaller form. For Example

- The 3rd List A document along with any other information to be entered in the additional information section would be a challenge. This affects readability as well as makes it hard to enter anything else.
- The other fields that are merged also create a similar challenge.

If you try to fill in some sample data you may find more issues.

Comment ID

USCIS-2006-0068-0687

Tracking Number

l6c-ckcr-c33p

Comment Details

Received Date

Aug 2, 2022

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Aug 3, 2022

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Greetings USCIS Officers,

As an HR professional, I recommend that we make the virtual I-9 documents verification process permanent. HR professionals are not fraud examiners. We cannot determine if documents are legitimate even if we see them in person. Seeing them virtually and in person are exactly the same for us. As the world has shifted to more virtual based of working style due to the pandemic and also the norm will be eventually changing even during the post pandemic era, making virtual I-9 document examination method permanent would be much suitable for the new work style that people have adopted. Thank you for your consideration.

Comment ID

USCIS-2006-0068-0688

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l6e-26wl-mtwp

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Aug 4, 2022

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I favor the proposed changes to the Employment Eligibility Verification Form. Over the years, we have seen the form go from 1 page to 2 pages, and the instructions go from 3 pages to 15. While the form and the information provided are important, the form/instructions have become burdensome. I hope the decision is made to reduce the number of pages to 1 and reduce the instructions from 15 pages.

Comment ID

USCIS-2006-0068-0689

Tracking Number

l6f-al0z-kcz6

Comment Details

Received Date

Aug 4, 2022

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PUBLIC SUBMISSION

Comment Submitted by Anonymous

Posted by the **U.S. Citizenship and Immigration Services** on Aug 5, 2022

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Please extend the 90 day receipt policy in section 2 of Form I-9 for "List C" EADs to match processing times by the USCIS. For example, current processing time for N-565 is 12 months at Nebraska which makes it impossible to meet the 90 day grace period for employees to comply with their employer to furnish an original EAD (ref: Handbook for employers M-274, 4.3 Acceptable Receipts). Please update this outdated policy so we do not lose good employees that are US Citizens.

Comment ID

USCIS-2006-0068-0690

Tracking Number

l6f-ykxc-2xf5

Comment Details

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Aug 5, 2022

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PUBLIC SUBMISSION

Comment Submitted by Jaclyn Myers Casale

Posted by the **U.S. Citizenship and Immigration Services** on Aug 8, 2022

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Related to OMB Control Number 1615-0047 for USCIS - Docket ID USCIS-2006-0068 for e-Docket ID number USCIS-2006-0068

Please remote the term 'physically' from page 3 (Section 1, Step 5, last paragraph); pg. 4 (first and second paragraphs); pg. 7 (second paragraph) and the requirement that employee and employer need to physical present and inspect, respectively, these documents for verification. This task can be accomplished within 3 days remotely using video conferencing methods and taking a screenshot of that session and downloading an image or scan of the presented document as supplemental documentation to accompany the I-9 electronically-signed form.
It is an undue burden to ask an employee to overnight sensitive documents to an employer in another state for inspection in order to meet this requirement. For California employers, there is the additional barrier that an e-notary cannot meet the requirement of a 3rd party representative so we may need to engage the services of an immigration lawyer in order to meet California requirements for who can inspect I-9 documents to verify the form. And even this remote verification by an immigration lawyer, it seems, would not meet the needs of the USCIS. Employees should not have to find someone locally who can review, inspect, verify & sign such a document as this I-9. It creates an invasion of privacy & an expectation that someone would know what to look for in reviewing these documents for expiration dates or even validity or evidence of fraud.

Please, I implore you to remove this unnecessary burden of in-person document inspection from the document & allow employers to meet the needs of today's remote workforce.

Comment ID

USCIS-2006-0068-0691

Tracking Number

l6j-vjpb-kbq0

Comment Details

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Aug 7, 2022

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Docket (/docket/USCIS-2006-0068) / Document (USCIS-2006-0068-0614) (/document/USCIS-2006-0068-0614) / Comment

PUBLIC SUBMISSION

Comment Submitted by Sentry Insurance Company

Posted by the **U.S. Citizenship and Immigration Services** on Aug 8, 2022

View More Comments 72 (/document/USCIS-2006-0068-0614/comment)

View Related Comments 625 (/docket/USCIS-2006-0068/comments)

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See the attached comment letter from the Sentry Insurance Company

Attachments 1

Public comment for I-9 Extension

Download (https://downloads.regulations.gov/USCIS-2006-0068-0692/attachment_1.pdf)

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USCIS-2006-0068-0692

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715 346-6550 PHONE
715 346-6770 FAX

August 8, 2022

SUBMITTED VIA www.regulations.gov

Samantha Deshommes
Chief, USCIS, Office of Policy and Strategy
Regulatory Coordination Division
United States Department of Homeland Security
5900 Capital Gateway Dr.
Camp Springs, MD 20746

RE: e-Docket ID No. USCIS-2006-0068
Agency Information Collection Activities; Revision of a Currently Approved Collection: Employment Eligibility Verification, OMB Control No. 1615-0047, USCIS Docket No. USCIS-2006-0068 – Proposed Changes to Form I-9, Employment Eligibility Verification

Dear Ms. Deshommes:

Sentry Insurance Company ("Sentry") is a Wisconsin-based mutual insurance company that offers commercial and personal insurance products to specific markets and industries. With its headquarters in Stevens Point, Wisconsin, Sentry employs over 4,000 associates nationwide in nearly all 50 states. Prior to the COVID-19 pandemic, many of these associates already worked from remote locations that were not close to a Sentry office. During the pandemic, over 90 percent of Sentry's workforce worked remotely and, even though Sentry recently completed repopulating its offices, it continues to have large numbers of associates who work remotely and not near a Sentry office.

Sentry appreciates the opportunity to comment on the points contained in the July 8, 2022 Federal Register invitation for comments on the above-referenced matter. Sentry's comments below focus on the fourth point of the request for comment (that is, the minimization of the burden of the collection of information related to Form I-9):

1. As noted above, prior to the COVID-19 pandemic, Sentry, like many other employers, employed associates in remote locations distant from the company's offices. Pre-pandemic, timely and proper completion of the Form I-9 for these associates was a significant burden due to the requirement that the necessary Form I-9 support documents be inspected in person. The pandemic highlighted this burden for a significant number of employers which converted to remote work for some or all of their workforces, and, recognizing the burden, DHS and USCIS provided for virtual completion of the Form I-9 to address the same difficulties that had been experienced pre-pandemic by companies with remote workers. Virtual completion of the Form I-9 was largely successful during the pandemic.

As companies like Sentry have brought their employees back into offices with the stabilization of the pandemic, there remains an increase in remote work situations that continues for many employers, in part because the pandemic continues to affect in-office work and in part because the pandemic has changed how employers think about remote work. As a result, many employers continue to face the difficulties of timely and properly completing the Form I-9 with workers working remotely. In other words, the pandemic highlighted the already burdensome issue of completing Form I-9 for remote workers, a viable virtual solution was provided by DHS and USCIS to address the pandemic, but the burden of completing the Form I-9 for remote workers remains the same and, for many employers, is likely greater due to an increase in remote workers. As a result, Sentry supports the permanent adoption of rules allowing for virtual completion of the Form I-9.

2. For employers, like Sentry, who use the e-Verify system to confirm the eligibility of their employees to work in the United States, a significant added level of verification exists that substantially reduces the need to physically observe the necessary Form I-9 support documents. Virtual verification of those support documents, in combination with the results generated by e-Verify, provide a highly reliable method of confirming an individual's eligibility to work in the United States. As a result, Sentry supports the adoption of rules that allow for virtual completion of the Form I-9 in situations where the e-Verify system has been used to confirm employment eligibility in the United States.

3. Allowing virtual verification of Form I-9 documentation would also make more uniform, and thus less burdensome, the timely and proper completion of the Form I-9. For companies like Sentry that have employees in different situations – some working in offices with human resources professionals present, some working in field offices without on-site human resources professionals, some working remotely – the ability to conduct virtual Form I-9 verification for all types of employees would substantially streamline the process and provide uniformity. This would reduce the burden and allow for a workflow that is more consistent across employees who are brought into the company in different ways and work in different settings.

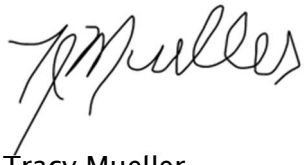
4. Sentry also supports eliminating the requirement to reverify the Form I-9 documentation provided by employees who were originally verified virtually during the COVID-19 pandemic upon their return to an office setting. As noted above, virtual verification has proven reliable, and the required reverification of Form I-9 documentation creates a significant burden that only creates work redundant to that already done virtually.

5. Finally, Sentry supports a lengthening of the current three-day period to complete Form I-9 documentation. This three-day period has always placed a heavy burden on employers with employees who work in varying situations, and it is even more onerous in remote work situations. A five working-day or seven calendar-day period would be more reasonable, less burdensome and would not substantially alter the purpose of Form I-9 documentation.

Thank you again for the opportunity to comment on ways to help minimize the burdens of collection of Form I-9 information. The COVID-19 pandemic provided a unique and valuable test of ways to reduce the completion of the necessary documentation for Form I-9 while still accomplishing its purposes.

Very truly yours,

SENTRY INSURANCE COMPANY



Tracy Mueller
Director – HR Service Center

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PUBLIC SUBMISSION

Comment Submitted by American Immigration Lawyers Association

Posted by the **U.S. Citizenship and Immigration Services** on Aug 8, 2022

View More Comments 72 (/document/USCIS-2006-0068-0614/comment)

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On behalf of the American Immigrations Lawyers Association, attached please find our response to the 30-day notice and request for additional comments on proposed changes to Form I-9, Employment Eligibility Verification, as published in the Federal Register on July 8, 2022. Our comment is responsive to the specific information requested in the 30 day notice and commends USCIS for changes made to Form I-9 while proposing additional changes that will make the form more effective in enhancing compliance.

Attachments 5

AILA Comment on Proposed Form I-9 8.8

Download (https://downloads.regulations.gov/USCIS-2006-0068-0693/attachment_1.pdf)

AILA Comment on Proposed Form I-9 5.31

Download (https://downloads.regulations.gov/USCIS-2006-0068-0693/attachment_2.pdf)

AILA Proposed 1-page I-9

Download (https://downloads.regulations.gov/USCIS-2006-0068-0693/attachment_3.pdf)

AILA Proposed 2-page I-9

Download (https://downloads.regulations.gov/USCIS-2006-0068-0693/attachment_4.pdf)

AILA LOAD Chart

Download (https://downloads.regulations.gov/USCIS-2006-0068-0693/attachment_5.pdf)

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AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

August 8, 2022

Samantha L Deshommes,
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

Submitted via www.regulations.gov
e-Docket ID number USCIS–2006–0068.

Re: Comment to Proposed Revision of a Currently Approved Collection: Employment Eligibility Verification (Form I-9); OMB Control Number 1615 0047

Dear Ms. Deshommes:

The American Immigration Lawyers Association (AILA) respectfully submits this response to the above-referenced 30-day notice and request for additional comments on proposed changes to Form I-9, Employment Eligibility Verification, as published in the Federal Register on July 8, 2022.[1] This response is submitted in conjunction with our comments of May 31, 2022[2], incorporated herein by reference. Specifically, we provide information regarding whether the proposed collection of information is necessary for the proper performance of the functions of the agency, suggestions for enhancing the quality, utility, and clarity of the information to be collected, and proposals for minimizing the burden of the information collection.

Established in 1946, AILA is a voluntary bar association of more than 16,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our 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. Our members' collective expertise and experience makes us particularly well-qualified to offer views that will benefit the public and the government.

Introduction

[1] 87 FR 40857 (July 8, 2022)

[2] *See* AILA Submits Comments on Proposed Revisions to Form I-9, May 31, 2022, available at *https://www.aila.org/infonet/comments-on-proposed-revisions-to-form-i-9.*

AILA National Office
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AILA would first like to applaud U.S Citizenship and Immigration Service (USCIS) for considering and implementing many of the public comments received in its latest revision to the proposed Form I-9. The resulting one-page form is a significant improvement over the prior proposal. While we continue to urge USCIS to reconsider its plan to return to a one-page format from the current two-page version, we understand that the majority of employees will now only require completion of this single page. Moving the less common sections of the form to addenda is a welcome compromise. Critically, moving the preparer/translator section to an addendum created space on the form to improve the Section 2 document fields. And the addition of an "additional information" section for reverification increases functionality.

We also greatly appreciate the reintroduction of boxes for individual digits of the Social Security number and the return of three separate spaces for noncitizens in category 4 to record USCIS/A numbers, I-94 numbers, and passport information, although we would still recommend including separate fields for the passport number and country of issuance.

The many places where USCIS added "if any" (and removed the requirement for the user to indicate "N/A") improve the overall form and reduce the burden on the user. The additional comments on the Lists of Acceptable Documents relating both to receipts and to expired documents that have been extended by the issuing authority are also helpful. The new proposed form offers impactful improvements over the previously published form, and AILA is grateful to USCIS for making these changes. Below we offer additional comments that we believe will further improve the functionality of the form while reducing the burden on employers and employees and increasing overall employer compliance.

Suggestions for Improvement

In addition to reducing the length of the Form I-9 and the burden of its completion, USCIS has an opportunity to make the Form I-9 more useful and helpful to employers.[3] We urge USCIS not to miss this opportunity. We believe the following enhancements to the form would dramatically improve the Form I-9 user experience:

1. Adding a method for new hires to indicate that an application for a SSN has been submitted (and a method to indicate the date the SSN is later added);
2. Including a box for those in the "Category 4" noncitizen group whose work authorization does not expire to check (instead of writing "N/A");
3. Removing the employee address requirement;
4. Removing the employer address requirement;
5. Making clear that the e-mail and phone number fields are optional (or removing them entirely);
6. Adding a Form I-9 retention calculator;

[3] While we have numerous suggestions relating to improvements for E and L spouses, the definition of "physical" examination of documents, E-Verify, and additional opportunities for USCIS to modernize the Form I-9 process, we focus this comment on specific changes to the Form I-9, the Lists of Acceptable Documents, and the forms accompanying instructions.

7. Including checkbox options in the "additional information" field to provide a simpler and more useful method for employers to remember and properly apply the various notations that are needed and to track critical data (see below for additional details);
8. Separating the rehire and reverification sections of the form;
9. Providing clearer instructions on the Form I-9 relating to reverification (to avoid accidental use); and
10. Adding the date of the auto-extension to Form I-797 notices so that employers (and ICE agents) do not need to calculate the current dates.

We understand that these changes may require reverting to a two-page form or including additional addendum sections. However, while USCIS has succeeded in reducing the first two sections of Form I-9 from two pages to one page on the form, we note that the proposed form has arguably expanded Form I-9 from 3 pages to 4 pages.[4] As previously explained, in our extensive and collective experience, the change from one-page to two pages had the very real effect of reducing the number of inadvertent errors made by both foreign nationals and employers because the respective responsibilities of employers and employees are clearly delineated on two separate pages of the current Form I-9, providing adequate space for all relevant information.

We believe the focus on paper reduction alone is misplaced when: (1) many employers need more comprehensive and clear instructions on Form I-9 completion with adequate space for input, and (2) many, if not most, employers are relying on electronic Forms I-9 and electronic storage of Forms I-9. The trend away from paper forms and toward electronic completion and retention has existed for many years and it is reasonably foreseeable that more employers will continue to gravitate toward electronic Forms I-9. Broader utilization of electronic forms will reduce paper use and storage burden, as well as provide greater flexibility to provide useful completion guidance. We believe the government's focus would better be placed on the promotion and facilitation of electronic versions of Form I-9 rather than encouraging or accommodating use of the paper form. Additionally, as explained in more detail below, we believe the compression of the form from two pages to one page does not improve quality, utility, clarity, or reduce the effective burden of the Form I-9. The compressed form will send employers back in time to an era full of inadvertent but costly errors, and occasionally may lead to the unintentional hiring of unauthorized workers.

Comments Specific to Section 1

While there have been welcome changes to the Form I-9 and the instructions from the original NPRM of March 30, 2022, there remain elements of the currently proposed form that increase the likelihood of mistakes by the employer and employee that cannot be justified on the basis of efficiency.

[4] Should the agency move forward with the condensed Sections 1 and 2, USCIS might consider a single page of addendums to include the Preparer/Translator section, a Rehire section, and a separate Reverification section, which would allow for the new Form I-9 to comprise 3 pages rather than 4.

We continue to suggest improvements to the proposed Form I-9, should it remain with both Section 1 and Section 2 on the same page as follows:

1. Adding Vertical Letters – "Employee" to left of Section 1
2. Adding the following helpful guidance inside the Section 1 grey ribbon at the top of Form:
   a. "EMPLOYERS MAY NOT COMPLETE SECTION 1 unless using Supplement A to Form I-9 as a Preparer or Translator."
   b. "Responses provided in SECTION 1 by EMPLOYEES can subject them to serious immigration consequences, such as removal or ineligibility for immigration benefits, if not correct."
3. In the Social Security number box, clarify by adding "if required, See instructions" or "optional unless employer uses E-Verify" to prevent unnecessary sharing of protected personally identifiable information.
4. As previously noted, provide space in the Social Security number box to indicate the date the Social Security Number was applied for and date it was added.
5. Removing the Employee Address fields. They are not necessary to determine the employee's eligibility to work in the U.S. DHS can ask the employer for the employee's updated address if DHS needs the address to conduct an enforcement action. Also, listing the address can lead employers to reject identity documents that reflect a different address, creating unnecessary opportunities for inadvertent unfair document practices.
6. Removing the fields for "Employee's E-mail Address" and "Employee's Telephone Number" as this information is not required by law and will otherwise create confusion (or, if they are not removed, making clear that these fields are optional).
7. Changing the language for Section 1, Box #4 to a "**noncitizen authorized to work,**" deleting the reference to "other than Items # 2 and 3 above" as it is confusing and likely to lead to inadvertent errors, and adding two boxes for the employee to select (A) without expiration or (B) temporarily (with a clear line for the expiration date) to clarify whether the employee is authorized to work indefinitely or with limitation.
8. Adding the letter "r" to the word "county" in Section 1, Box #4 "Foreign Passport Number and **County** of Issuance."
9. Reintroducing two separate fields for the passport country of issuance and passport number.
10. Adding language to the attestation to ensure that employees understand the full scope of the legal consequences of completing the form and how this information may be used against them, especially in immigration proceedings: "NOTE: Information provided on this form may be used against you in future immigration proceedings."
11. Adding "by my signature below" to the attestation for additional clarity: "I attest, **by my signature below**, under penalty of perjury..."
12. Increasing the font size in Preparer/Translator Reference under the Section 1 signature line for ease of reference and use a link (with blue font) to reference

Supplement A as has been done at the bottom of the page directly under Section 2 to reference Supplement B.

13. In the instructions for completion of Section 1, we suggest that USCIS improve clarity and usefulness by making the following changes:

a. Adding the following to the instructions regarding Social Security Numbers: "A person's Social Security Number is considered protected Personally Identifiable Information and should be safeguarded from unnecessary access by third parties."

b. Adding under "Step 2. Attest to your citizenship or immigration status": "Responses provided in SECTION 1 by EMPLOYEES can subject them to serious immigration consequences, such as removal or ineligibility for immigration benefits, if not correct."

c. Adding clarifying language to the "Do not back-date this field" instruction to read "Do not provide a date earlier than the actual signature date in this field."

Comments Specific to Section 2

We again thank USCIS for reviewing and implementing comments made by AILA and other stakeholders in Section 2. While we again reaffirm our suggestion to place Sections 1 and 2 on separate pages, our recommendations below are focused on the current proposed Form I-9.

1. We suggest that the field for "First Day of Employment" box should be more prominently displayed. In its current position, many employers will fail to complete this field.

2. We also suggest that the instructions for the "First Day of Employment" field should reside in the Section 2 instructions (in addition to, or instead of, where they currently reside, in the definition of "Employees"). We ask that USCIS consider relocating the instructions and clarifying that, if the First Date of Employment is changed, the employer may, but is not required to, update the date. It is too burdensome for larger employers, including those in the hospitality, retail, agriculture, manufacturing, and other industries, where start dates frequently change, to make this update. Further, the Section 2 instructions should clarify that the first day of employment corresponds with the intended date for the employee to begin performing labor or services in the U.S. in return for wages or other remuneration.

3. Due to the fact that the employee and employer no longer each have a separate page, we suggest that USCIS add, in vertical letters, "Employer" to left of Section 2.

4. In the horizontal line in Section 2 containing "List A," "List B" and "List C", in order to avoid confusion and to ensure employers are aware of the document requirements under 8 CFR § 274a.2, we suggest moving the word "OR" in the grey bar between Lists A and B to the same horizontal level as the word "and" between Lists B and C.

5. Currently there are "combination documents" that must be reviewed to satisfy lists other than List A. For example, USCIS states that an expired Permanent Resident Card with a Form I-797 Notice of Action for Form I-751 Petition to Remove Conditions serves as a List C document. An F-1 student working under Curricular Practical Training may present Forms I-94 and I-20 as a List C document. However, the employer is not given instructions on what to record on the Form I-9, and List C only has space to record information from one document, not two. We suggest adding List C fields and providing clearer instructions to employers on what to record on the Form I-9 and where to record it. Alternatively, the "additional information" area might be used to make this process much simpler for employers. Please review the attached proposed Forms I-9 (provided previously with our earlier comment), which have a "receipts" list and the option for an employer to check a box to indicate that the LPR card was presented with a Form I-751 receipt.

6. Due to the continuously evolving guidance and the enormous amount of information USCIS requires be placed in the Additional information field, we suggest creating a place in Supplement B for "Notes and Additional Information." This would provide a space for employers to record any data that does not fit in the existing, relatively small space in Section 2. In this case, we also suggest adding a check box to indicate whether Supplemental B is being utilized to provide additional information.

7. AlLA also renews our request to include check boxes for the employer in the Additional Information section. Specifically, these boxes should allow the employer to add specific information relating to:

a. Automatic Extensions;
b. Optional Tracking Details (such as EAD category code and TPS country);
c. Optional E-Verify Details; and
d. Receipts. By including fields for this specific information, employers will be able to better understand when a receipt is required/acceptable and under what List of Acceptable Documents the information should be placed.

Please refer to AILA's suggested "additional information" sections on both proposed versions of Form I-9 included with our May 31, 2022 comment (copies enclosed).

8. We also seek clarification surrounding the instructions related to the Additional Information Box. The updated Instructions located at the bottom of Page 5 note the employer or an authorized representative should record "any additional information required to complete Section 2, or any updates that are necessary once Section 2 is complete. Initial and date each additional notation." Should employers consider this to mean that only updates made after the execution of Section 2 require the individual making the update to initial and date? Further if the person who initially signed Section 2 is not the person making the additional notation, should they include their full name and title?

9. Underscore or otherwise highlight "Title of Representative" in the signature block. It is too easy to miss. Alternatively, separate the last name, first name, and title fields to ensure that this is not overlooked.

10. Further, it would be helpful if the instructions clarified what "Title of Employer or Authorized Representative" means. This should be clarified to better inform the person completing the verification that, if they are an employee of the business or organization employing the new hire, their job title should be written, but that if person completing the verification is a third-party authorized representative, then that person should only write that he/she is an "Authorized Representative," as that person does not necessarily have a title with the employer. This provides clarity for both the employer and the government agencies reviewing the Forms I-9 for compliance.

11. Finally, we question whether a business address is needed in Section 2 of the Form I-9. If it remains, USCIS might consider providing instructions to clarify that the employer can choose to list the headquarters address, the address where verification of employment authorization is conducted, or the address where the employee will work.

Comments Specific to the Lists of Acceptable Documents (LOAD)

AILA appreciates that UCSIS has, in its proposed new Form I-9, improved the Lists of Acceptable Documents (LOAD). Specifically, we applaud the addition of statements clarifying the acceptability of receipts, reiterating that documents must be unexpired, and also indicating that documents extended by the issuing authority are considered unexpired. We agree that it is important to highlight these points and we commend USCIS for doing so.

We believe, however, that the LOAD page in particular highlights the difficulties employers face in determining acceptable documents due to the complexity and ever-changing nature of our immigration laws. For compliance, the goal should be simplicity as well as fairness. Employers are faced with a practical labyrinth of references to determine what documents are acceptable for completion of the Form I-9. The M-274 in Section 12 directs employers and employees to I-9 Central. I-9 Central includes a Latest Headlines page and a list of acceptable documents link, which is incomplete. Federal Register notices are frequently issued that change or add to the LOAD. And E-Verify employers must be aware that some documents must include photos in order to be acceptable. This convoluted array of instructions can lead well intentioned and compliance-focused employers to incorrectly terminate work-authorized employees from their jobs.

At a recent liaison meeting between the American Immigration Lawyers Association (AILA) and U.S. Citizenship and Immigration Services (USCIS), Immigration and Customs Enforcement (ICE) – Homeland Security Investigations (HSI), DHS Civil Rights and Civil Liberties (CRCL) and the Department of Justice's Immigrant and Employee Rights Section (IER) on April 7, 2022, AILA committee members noted that there are now more than 26 additional document combinations that can be presented to complete the Form I-9, which are not listed on the Form I-9 itself. A copy of the revised LOAD prepared by AILA for that meeting is attached hereto.

We recognize that USCIS provides a Form I-9 Contact Center, but we believe that the M-274 should be modified to direct employers to a page on I-9 Central that is maintained in real time to reflect all acceptable document combinations with examples of what they look like and how to complete the relevant Form I-9 section. In that same list, references to Federal Register notices with respect to automatic extensions of Temporary Protected Status based work authorization should be provided. The LOAD page is a critical component of Form I-9 compliance, but employers are currently left to research too many locations to make sure that they are accepting all appropriate documents. This page should also annotate the modifications required by E-Verify employers as opposed to directing employers to yet another page on the USCIS website. We believe this simple approach will improve both the likelihood that employers will locate relevant information and ensure compliance with the employment verification process.

In addition, HSI should confirm the responsibility of reasonable employers in relation to the determination of the current LOAD. It seems that employers must – at minimum - consider the Form I-9, the Form I-9 instructions, the M-274, I-9 Central, and the E-Verify section of the USCIS website to feel reasonably certain that they are conducting their Form I-9 legal compliance in an acceptable manner. Reducing the Form I-9 to one page in no way reduces the complex maze of documents deemed acceptable to provide work authorization and we believe it is imperative that USCIS give equal priority to providing employers with a simplified resource for ensuring compliance with the Form I-9 documentation requirements.

List C, Item 7

List C, Item 7 presents significant compliance challenges to employers trying to satisfy their employment verification requirements because there is no link to a single location on I-9 Central, and USCIS is unable to update the M-274 to keep pace with immigration law and policy changes. The proposed changes to the upper portion of List C now refer employers and employees to Sections 6 and 12 of the M-274. Section 6 of the M-274 refers to "Evidence of Status for Certain Categories," while Section 12 provides an incomplete list of "Acceptable Documents." (Please note that the proposed new instructions to the LOAD omit the reference to Section 6 and only refer to Section 12.)

The M-274 notes in Section 12.0 that, "However, this section does not provide all of the variations of a particular document, and new versions of a document may become available after we publish this handbook... For examples of acceptable employment authorization documents issued by the Department of Homeland Security (List C #7), please visit uscis.gov/i-9central." I-9 Central's LOAD link includes the following information regarding List C, Item 7 employment authorization documents:

Employment authorization document issued by the Department of Homeland Security (DHS)

Some employment authorization documents issued by DHS include but are not limited to Form I-94 Arrival/Departure Record issued to asylees or work-authorized nonimmigrants (for example, H-1B nonimmigrants) because of their immigration status, Form I-571, Refugee Travel Document (PDF), an unexpired Form I-327, Reentry Permit , Form N-560, Certificate of U.S. Citizenship or Form N-561, Replacement Certificate of Citizenship (PDF, 40.3 KB), or Form N-550, Certificate of Naturalization or Form N-570, Replacement Certificate of Naturalization (PDF, 176.3 KB). A Form I-797 issued to a conditional resident may be an acceptable List C document in combination with his or her expired Form I-551. Form I-9 contact center can assist with questions on DHS-issued documents.

As noted above, I-9 Central does not contain a single location listing all current LOAD documents. We encourage the establishment of one central link, to be updated in real time. This will make employer compliance more likely, will allow employees to more easily determine what they need to present to employers, and will prevent inadvertent discrimination issues.

Additional Proposed Changes

- Please consider adding the word "immigration," before the word, "status," at List A, Item 5 to clarify the intent of the provision.

- The last line on the page contains an "*" reference to the employment authorization extensions page on I-9 Central. We are not sure to what portion of the LOAD page the asterisk refers, and USCIS should clarify to which section of the LOAD it relates. It is unclear but perhaps List A, Item 4 should be the line designated for this reference.

- The clarification in List C that a Form I-766 is a List A, Item 4 document may be better placed in the same "*" reference rather than in Item 7 of List C due to its relevance to List A.

- For consistency, we further suggest that the bottom portion of the LOAD relating to Acceptable Receipts should refer to the M-274 as well as to I-9 Central, particularly as to receipt validity dates, as I-9 Central is used to provide ongoing guidance with respect to updates. It would be helpful if the current "Latest Headlines" portion of the home page of I-9 Central would also include a LOAD filter category in the "Related News" page.

Comments Specific to Supplements A and B

Following the initial comment period, we appreciate USCIS' revisions that allow for easier completion of Form I-9 by both the employee and employer. Specifically, the proposed revised version of the Form I-9 includes some beneficial changes, such as the following:

1. Moving the Preparer and/or Translator Certification from page 1 to Supplement A, allowing for more space for other items in Sections 1 and 2 on page 1 of the Form.
2. The inclusion of an "Additional Information" section in Supplement B (formerly Section 3) will permit employers to include key information relevant to the reverification process, including references to EAD auto-extensions, TPS extensions, and receipts.
3. The instructions for Supplement B now clarify that "[e]mployers need only complete and retain the supplement page when employment authorization reverification is required."

Nevertheless, to ensure that Form I-9 is even easier to use by employers and employees, and thus ensuring a more fully compliant verification process, AILA makes the following recommendations to Supplements A and B.

Supplement A, Preparer and/or Translator Certification for Section 1

1. As previously noted, on the bottom of Section 1, include a reference to Supplement A for Preparer and/or Translator assistance, similar to reference to Supplement B at the bottom of the page.
2. Given the extra space on the page, we recommend increasing the font size to enhance readability or including three separate addenda on one page (Preparer/Translator, Rehire, and Reverification). In the second option, we recognize that an employer would add a new addendum page to the Form I-9 for subsequent rehire or reverification events, but the Form I-9 would return to a three page (rather than the current four page) total length.
3. In the instructions section on the top of page, add "above" (i.e. "in the spaces provided **above**") at end of second sentence to clarify preparer and/or translator enters employee's name in boxes on top of the page.
4. The instructions to Supplement A should clearly state that if a preparer/translator is not utilized, the employer is NOT required to retain a blank Supplement A with the Form I-9.

Supplement B, Reverification and Rehire (formerly Section 3)

1. To be consistent with the List of Acceptable Documents, as well as List C's references to the M-274 and I-9 Central, the instructions for Supplement B should also refer to both sources and not just to the M-274.
2. We reiterate our previous suggestion that USCIS reorganize the "Reverification, Update, Rehire, or Name Change" into separate sections to aid employers and avoid misunderstanding or misuse of Supplement B. Please refer to our preciously provided proposed "one page" Form I-9.
3. Clarify the reverification instructions to differentiate between an update (after presentation of a receipt) and a reverification (which only applies to "Category 4" nonimmigrants. Please refer to our previously provided proposed Forms I-9 for proposed instructions.

4. In the instructions, at page 5, Reverifications, first paragraph, last sentence, we suggest replacing "additional" with "subsequent" for enhanced clarity. The new sentence should read as: "Employers should complete any **subsequent** reverifications by the expiration date of the List A or List C documentation entered during the employee's most recent reverification." Please refer to AILA's suggested reverification instructions on the sample "two-page" version of Form I-9 included with our May 31, 2022 comment (copy enclosed).

5. We also suggest including a retention calculator, similar to the chart published on I-9 Central, as a separate supplement. Please refer to AILA's suggested retention calculator on the proposed "two-page" version of Form I-9 included with our May 31, 2022 comment (copy enclosed).

Conclusion

AILA appreciates the opportunity to provide feedback to the agency regarding its proposed revisions to Form I-9. AILA looks forward to a continuing dialogue with USCIS on this and related matters.

Please address any concerns or questions to AILA Director of Government Relations Sharvari Dalal-Dheini at SDalal-Dheini@aila.org.

Sincerely,
THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION

AMERICAN
IMMIGRATION
LAWYERS
ASSOCIATION

May 31, 2022

Samantha L Deshommes,
Chief, Regulatory Coordination Division
Office of Policy and Strategy
U.S. Citizenship and Immigration Services
Department of Homeland Security
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Camp Springs, MD 20746

Submitted via www.regulations.gov
e-Docket ID number USCIS–2006–0068.

Re: Comment to Proposed Revision of a Currently Approved Collection: Employment Eligibility Verification (Form I-9); OMB Control Number 1615 0047

Dear Ms. Deshommes:

The American Immigration Lawyers Association (AILA) respectfully submits the following in response to the above-referenced 60-day notice and request for comments on proposed changes to Form I-9, Employment Eligibility Verification, as published in the Federal Register on March 30, 2022.[1] Specifically, we provide information regarding the nature of the information collection, the estimated burden (i.e. the time, effort, and resources used by the respondents to respond), the estimated cost to the respondent, and the actual information collection instruments.

Established in 1946, AILA is a voluntary bar association of more than 16,000 attorneys and law professors practicing, researching, and teaching in the field of immigration and nationality law. Our 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. Our members' collective expertise and experience makes us particularly well-qualified to offer views that will benefit the public and the government.

Introduction

[1] [1] 87 FR 18377 (March 30, 2022).

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AILA appreciates the efforts of USCIS to simplify the completion of Form I-9 for employees and employers. Our comments are intended to provide recommendations for further improvements for USCIS to consider in this effort. The Form I-9 was introduced in 1986 as a means of minimizing the hiring of unauthorized workers by employers. It was never intended to be a primary means of penalizing well intentioned and compliance-focused employers for paperwork errors. Hence, the 1997 Virtue Memorandum[2] effectuated the Good Faith Amendment to the Immigration Reform and Control Act by providing 10 days to correct minor errors which were not likely to lead to the hiring of unauthorized workers. More recently, the Department of Homeland Security (DHS) Secretary Mayorkas' Memorandum of 2021[3] prioritizes enforcement towards "unscrupulous employers" as opposed to employers making good faith efforts to comply and undocumented workers who are contributing to their communities. Accordingly, we believe that any changes to Form I-9 should begin with the goals of simplifying compliance and easing procedural burdens on employers

Having said that, we agree, as a basic concept, AILA believes that a shorter form with fewer instructions would seem to be an improvement, as long as such reduction will ensure clarity, be more comprehensible, and eliminate redundancy. However, thirty-six years of experience counseling employers grappling with the complexity of changing requirements leads inexorably to the conclusion that efforts to decrease the length of the form may lead inevitably to a corresponding increase in confusion and mistakes.

The Form I-9 has been a two-page form for almost a decade. For more than the prior two decades, it had been a one-page form. Therefore, we have direct practical experience with both one-page and two-page versions of Form I-9s. In our extensive and collective experience, the change from one-page to two pages had the very real effect of reducing the number of inadvertent errors made by both foreign nationals and employers because the respective responsibilities of employers and employees are clearly delineated on two separate pages and there is adequate space for all relevant information.

As USCIS noted on its website, the stated need for this revision to Form I-9 is to "compress sections 1 and 2 from two pages to one page to reduce paper use and storage burden on employers" as well as to "simplify the instructions from 15 pages to 7 pages, further reducing paper usage." Electronic form preparation and retention has existed for many years and it is reasonably foreseeable that more employers will continue to gravitate toward electronic Forms I-9. Broader utilization of electronic forms will reduce paper use and storage burden, as well as provide greater flexibility to provide useful completion guidance. We believe the government's focus would better be placed on the promotion and facilitation of electronic versions of Form I-9. Additionally, as explained in more detail below, we believe the compression of the form from two pages to one page does not improve quality, utility, clarity, or reduce the effective burden of the Form I-9. The

[2] Memorandum: Interim Guidelines: Section 274A(b)(6) of the Immigration and Nationality Act Added by Section 411 of the Illegal Immigration Reform and Responsibility Act of 1996. Immigration and Naturalization Service, Office of Programs. HQIRT 50/5.12 (March 6, 1996).

[3] Memorandum: Worksite Enforcement: The Strategy to Protect the American Labor Market, the Conditions of the American Worksite, and the Dignity of the Individual. Department of Homeland Security Policy Statement 065-06 (October 21, 2021).

compressed form will send employers back in time to an era full of inadvertent but costly errors, and occasionally may lead to the unintentional hiring of unauthorized workers.

We provide the following comments with sincere appreciation for the efforts of USCIS to initiate this conversation and we look forward to being partners with USCIS in modernizing not only the Form I-9, but also the entire employment verification compliance system in a manner that encourages employer compliance and minimizes the hiring of unauthorized workers.

General Information Regarding the Nature of the Information Collection,

From a legal, technical and practical perspective, the Department of Homeland Security's proposal to return to a one-page Form I-9, rather than the current two-page form is unnecessary because the Form I-9 is not burdensome and the change will likely create more problems for employers and employees than it solves. Our reasons for this belief are as follows:

1. Error rates, particularly paperwork errors, were substantially reduced when the USCIS introduced the two-page Form I-9 on March 8, 2013. Based on our direct experience auditing and advising employers on their Form I-9 compliance programs, we observed a considerable drop in error rates on the part of both employers and employees. Notably, the bifurcation of the Form into two sections in which only the Employee (Section 1, located on page 1) or Employer (Section 2, located on page 2) is permitted to enter data significantly enhanced the integrity of data being entered. We believe that reverting to the one-page Form I-9 is likely to cause an increase in instances in which the employer inadvertently makes entries/edits to the Form in a section in which only the employee should enter data. Moreover, the instructions for the proposed Form I-9 do not explicitly state that the employer is prohibited from typing/entering any data in Section 1 on behalf of the employee.

2. Creating a one-page Form I-9 that will increase error rates, both substantive and technical, by well-meaning employers, as opposed to "bad actor" employers, is contrary to the intent of Mayorkas' Memo. In the memorandum, Secretary Mayorkas says DHS will pursue "unscrupulous employers", who "exploit their employees' immigration status and vulnerability to removal by, for example, suppressing wages and maintaining unsafe working conditions." Employers who make inadvertent errors on Form I-9 are not "unscrupulous employers."

3. The technical errors that will inevitably increase with a reduction in clarity of the Form is also contrary to the previously mentioned Virtue memo, which prioritized mistakes that "are likely to the lead to the hiring of an unauthorized [worker]." In the overwhelming majority of circumstances, paperwork errors will not typically lead to an unauthorized worker being hired. Rather than creating a new and confusing version of the Form I-9 to facilitate paper-based completion of the employment verification process, USCIS would better serve the public by creating an electronic employment verification system that provides ease of access and reduces the burdens and obligations on employers attempting to comply in good faith with the law.

The Estimated Burden: Impact on the Burden to Prepare

Again, based on our several decades of experience advising employers on the proper completion of the form, we believe the stated time estimates do not reflect the actual burden and time required to fully comply with the form's requirements. A stated objective to the current proposed revisions is to shorten the written form's instructions that employers must provide to all employers. Putting aside for the moment the obvious concern that shorter instructions may negatively impact compliance, even if a shorter set of instructions is provided, review of the instructions and the actual completion of the Form I-9 will be largely unaffected by this change and, in any event, will take significantly longer than currently estimated.

It is imperative that sufficient time is acknowledged by USCIS to set realistic expectations for employers in terms of resourcing the employment verification process, as the form is signed under penalty of perjury with possibly significant penalties for noncompliance. To that end, we respectfully submit that the language on the face of the form should be revised to clearly reflect the seriousness of noncompliance for both the employee and employer signatories. Our proposed language is as follows: "NOTE: Information provided on this form may be used against you in future immigration proceedings."

As a result of the changes to the employment environment due to COVID, it is reasonable to anticipate that employers will likely have a significantly higher need for use of agents to complete the form for new hires working remotely.[4] USCIS's instructions should make clear to potential agents the risks assumed when requested to complete the form so agents can make fully educated decisions on whether to sign Section 2 of the form and take all necessary steps to ensure compliance. Most importantly, to effectively reduce the burden on employers and to align the actual burden with the estimated .33 hours per form, a permanent virtual verification option, where a well-trained and centralized Human Resources (HR) team may complete the employer sections and review the content provided by the employee in real time, is essential.

Finally, we note that the Federal Register notice indicates that "[t]he estimated total annual cost burden associated with this collection of information is $0. Any requirements to support the verification process are already available through other approved collections of information that may be employment related or occur as a part of the hiring process. There is no submission to USCIS of materials which eliminates mailing and photocopying costs." This wholly unrealistic language suggests that there are no costs associated with Form I-9 preparation or compliance as employers are developing form information in the onboarding process, separate from the specific process of Form I-9 completion. While employers may develop some of the information necessary for completion of Form I-9 independent of the employment verification process, this overly broad statement fails to recognize the tens of millions of dollars that employers spend annually on training, implementation, oversight and auditing of their employment verification records.

[4] A simpler and more employer-friendly solution to the changes created by the Covid-19 pandemic would involve allowing for a virtual Form I-9 verification process on a permanent basis.

Recommendations

To ensure that the Form I-9 is easy to use by employers and employees to ensure full compliance, AILA makes the following recommendations.

1. *Nature of the Information Collection and the Information Collection Instrument*

We appreciate the USCIS revisions that allow for the easier completion of the Form I-9 by both the employee and employer. Specifically, the proposed revised version of the Form I-9 includes some beneficial changes, such as the following:

- The removal of the requirement to insert "N/A" into the blank fields will assist both employees and employers when it is logical to imply that a blank field generally means, not applicable, especially when a field such as "Other Last Names Used" in Section 1 specifically states "(if any)". Requiring employees to write in "N/A" in such a field is redundant. The same is true with respect to the fields in Section 2 that require "Expiration Date (if any)". Requiring employers to add "N/A" to such fields is also redundant.
- The consolidation of all the attestation language for Section 1 in one location makes it easier for the employees to complete Section 1 with fewer errors.
- The proposed attestation to be completed by the employee in Section 1 is clear.
- The removal of the check boxes for the "Preparer/Translator" certification also reduces the likelihood of errors by employees when completing Section 1, especially when a Preparer/Translator was not used.
- The change in the reference of "document" or "documents" to "documentation" on both the Form I-9 and in the Instructions makes it clearer for the employer, as well as the employee when completing the fields in the Form I-9.
- The additional information referencing the M-274 in List C of the list of Acceptable Documents is a much welcome addition as it provides both employees and employers with guidance as to where to find the information on the USCIS website.
- The "Acceptable Receipts" section that has been added to the List of Acceptable Documents is also a welcome addition that should assist employers when completing the Form I-9 as this has often been confusing and some employers have not known where to find specific guidance related to the acceptance of "receipts".

2. *Suggested improvements to the proposed revised Form I-9 if both Section 1 and Section 2 are on the Same Page*

While there have been welcome changes to the Form I-9 and the instructions, there have been many changes that have increased the likelihood of mistakes to be made by the employer and employee that cannot be justified on the basis of efficiency.

We suggest the following improvements to the proposed Form I-9, should it remain with both Section 1 and Section 2 on the same page:

I. Section 1

a. Retaining the separate field for the "Apartment Number (if any)" as it is more likely that employees will fail to include the Apartment Number if it is included in the same field as the "Street" Address.
b. Adding boxes for the digits to be entered for the Social Security Number should be included in the U.S. Social Security Number field.
c. Indicating "Optional" on the fields for "Employee's E-mail Address" and "Employee's Telephone Number" as this information is not required and will otherwise create confusion.
d. Restoring the three separate fields in Section 1, "Check one of the following boxes to attest to your citizenship or immigration status" under #4 (Alien Registration Number/USCIS Number; Form I-94 Admission Number; Foreign Passport Number and Country of Issuance). The proposed change not only requires an employee to squeeze the information into a narrowly condensed space, but also makes it unclear as to who is to complete this field as it is a "floating" line on the form and could be interpreted by an employee to be a requirement to be completed by all employees.
e. Changing the language for Section 1, Box #4 to "A nonimmigrant authorized to work" and add two boxes for the employee to select (A) without expiration or (B) temporarily (expiration date (mm/dd/yyyy) to make it clear whether the employee is authorized to work indefinitely or with limitation.
f. Keeping the three types of documents in Section 1, Box #4 on separate lines with "OR" between them so that the employee knows to complete this information only if checking Box #4 as his/her status.
g. Adding the following language to the attestation so that employees understand how this information may be used against them – "NOTE: Information provided on this form may be used against you in future immigration proceedings."
h. Relocating the Preparer/Translator Certification to the top of Page 2 in Section 2. This will allow for more room for the employer to properly complete the information pertaining to the required documentation for Lists A, B and C. Also, adding a line, if deemed necessary for compliance purposes, immediately after the signature block of Section 1 indicating, "If a Preparer or Translator assisted in the completion of Section 1 of this form, that person is required to complete the Preparer and/or Translator Certification on Page 2.'

AILA has drafted a "one-page" version of Form I-9 with proposed revisions to Section 1 that is included with this comment.

II. Section 2

a. Increasing the size of the lines on the Form I-9 for the employer to insert the information for the relevant documentation for Lists A, B and C, as the proposed lines are extremely small and will create errors by employers, not to mention making it difficult for internal employer auditors and the government to review.

b. Restoring the fields for the third requirement documentation in List A as its elimination will lead to additional errors by employers, by either failing to include the information related to the third required document or failing to include all of the required information for the third document if required to squeeze the information into the margins and/or the "Additional Information" box.
c. Increasing the size of the box for "Additional Information" as it is too small and will not provide sufficient space for the additional information that is required for explaining common circumstances, such as automatic extensions, etc.
    i. A further challenge with the Additional Information box is that the line appears to allow for three options, which is problematic for electronic Form I-9 providers as they need to know how to report this information and typically need a field for every different category of response. A long blank line with multiple options does not allow these vendors to enable a rule to follow for this entry and does not allow for the use of Artificial Intelligence (AI) for the entry.
d. Moving the "Preparer/Translator Certification" section to the top of the Reverification and Rehire Supplement to Form I-9, as this would permit more room for the "Additional Information" section. The Supplement should then be renamed "Preparer/Translator, Rehire, Update and Reverification Supplement to Form I-9".
e. Including checklists for the employer in the Additional Information[5] section, which should include fields for the employer to add specific information relating to:
    i. Automatic Extensions;
    ii. Optional Tracking Details (such as EAD category code and TPS country);
    iii. Optional E-Verify Details; and
    iv. Receipts: including fields for this specific information, employers will be able to better understand when a receipt is required/acceptable and under what List of Acceptable Documents the information should be placed.
f. Adding "in the U.S." after "Employee's First day of Employment" in the box requesting this information in order to clarify request relates to the first day of employment in the U.S. when employees may have transferred to the U.S. from the employer's offices abroad.

AILA has drafted a "one-page" version of Form I-9 with recommended changes to Section 2 that is included with this comment.

III. <u>The Reverification and Rehire Supplement for Form I-9.</u>

a. As noted previously, given the increased likelihood that employees and employers will make errors in Sections 1 and 2 if the Form I-9 is condensed to one page, moving the "Preparer/Translator Certification" section to the Reverification and Rehire Supplement to Form I-9 and renaming the Supplement "Preparer/Translator, Rehire,

[5] Note that, for electronic systems, open ended data field in the Additional Information field is problematic as vendors have no ability to monitor or apply rules to the data potentially added here, leading to a more chaotic data field than an efficient Form I-9 management system.

update and Reverification Supplement to Form I-9". This will allow for significant additional room for the employee and employer to more accurately complete Sections 1 and 2.

b. Adding the following instruction: "Use this section if someone assisted your employee in completion of the Form I-9" to the Preparer/Translator Certification in this Supplement
c. Defining more clearly the "Reverification, Update, Rehire, or Name Change" section of the Supplement with the specific heading and providing clear instructions to the employer about when and how to complete this Supplement with the required information. (See the proposed "Preparer/Translator, Rehire, update and Reverification Supplement to Form I-9" included with this comment.)

AILA has drafted a proposed Supplement to Form I-9 for the "one-page" version of Form I-9 that is included with this comment.

With the proliferation of alternative acceptable employment authorization documents, typically those listed at Column C, item #7, an area that now more than ever confuses employers, employees and Form I-9 vendors, it is important that USCIS provide a simpler and more user-friendly method of completing Form I-9 in this scenario. The substantial number of document combinations makes it hard for employers, and employees, to know what to use, when to use it and how and what to track for the expiration date. This expanding numbers of items is also creating greater difficulty for Form I-9 technology vendors and increases the potential for non-substantive technical errors and the appearance of discrimination. In this context, we believe that maintaining an accurate and up to date list of acceptable documents in a prominent location on the USCIS I-9 Central website, combined with specific instructions on how Form I-9 is to be completed with this information and how expirations dates should be tracked, is a prerequisite for ensuring that all stakeholders know how to properly document employment authorization in these complicated scenarios.

3. *Suggested improvements to the proposed revised Form I-9 if the Form I-9 remains a two-page form with Section 1 and Section 2 on separate pages.*

The creation of the Form I-9 as a two-page document with Section 1 and Section 2 each on their own page was a welcome change for all parties involved in employment verification compliance as it made it easier to determine which party completed which section and allowed for space to provide all required information. The reduction of the Form I-9 to a single page that contains both Section 1 and Section 2 is unlikely to accomplish the primary purpose of the form (enhanced employment verification) and will increase the likelihood of mistakes, not only technical errors and substantive errors, but more importantly the hiring and/or retention of individuals without valid work authorization, therefore AILA recommends that Section 1 should remain as its own separate Page 1 and Section 2 should remain in its own separate Page 2. To that end, AILA makes the following recommendations:

I. <u>Page 1, Section 1</u>

a. Leaving the separate field for the "Apartment Number (if any)" as it is more likely that employees will fail to include the Apartment Number if it is included in the same filed as the "Street" Address.
b. Including the boxes for the digits to be entered for the Social Security Number in the U.S. Social Security Number field.
c. Indicating "Optional" on the fields for "Employee's E-mail Address" and "Employee's Telephone Number" as this information is not required and removing the word will create confusion.
d. Restoring the three separate fields in Section 1, "Check one of the following boxes to attest to your citizenship or immigration status" under #4 (Alien Registration Number/USCIS Number; Form I-94 Admission Number; Foreign Passport Number and Country of Issuance).. The proposed change not only requires an employee to squeeze the information into a narrowly condensed space, but also makes it unclear as to who is to complete this field as it is a "floating" line on the form and could be interpreted by an employee to be a requirement to be completed by all employees.
e. Changing the language for Section 1, Box #4 to "A nonimmigrant authorized to work" and add two boxes for the employee to select (A) without expiration or (B) temporarily (expiration date (mm/dd/yyyy) to make it clear whether the employee is authorized to work indefinitely or with limitation.
f. Keeping the three types of documents in Section 1, Box #4 on separate lines with "OR" between them so that the employee knows to complete this information only if checking Box #4 as his/her status.
g. Adding the following language to the attestation so that employees understand how this information may be used against them – "NOTE: Information provided on this form may be used against you in future immigration proceedings."
h. Delineating the Preparer/Translator Certification on Page 1 so that it is clear that this Certification only needs to be completed if a preparer and/or translator assisted with the completion of Section 1.
i. Adding an optional box entitled: "OPTIONAL: RETENTION CALCULATOR" for employers to complete once the employee's employment has been terminated. This will increase the likelihood of employers retaining the Form I-9 for the required period of time, facilitate both internal corporate and government audits and creates a more uniform way to indicate the retention date information on the Form I-9.

AILA has drafted a "two-page" version of the form with proposed revisions to Page 1, Section 1 that is included with this comment.

II. <u>Page 2, Section 2</u>

a. Retaining Section 2 of the Form I-9 as its own section on Page 2 of the form just as it is in the current version of the Form I-9.
    i. This structure provides a clear delineation about which party is to complete each section of the form.

ii. It also allows for sufficient room for the employer to include all required information for the documentation provided by the employee to prove identity and work authorization, as well as for both internal auditors and government agents to review.

b. Retaining the Section 2 fields for the third document that is required in certain circumstances for List A documentation in order to alleviate inadvertent errors and/or omissions by employers.
    i. Without the third document fields, employers will likely fail to include the information related to the third required document or fail to include all of the required information for the third document.
    ii. The prior "one-page" version of Form I-9 with fields for only two documents in List A led to employers having to squeeze the information into the margins and/or the "Additional Information" box and, in many instances, led to increased errors.

c. Enhancing the "Additional Information" box to include checklists to provide employers with much needed guidance related to these confusing situations. Such checklists should include fields for the employer to add information about:
    i. Automatic Extensions
    ii. Optional Tracking Details (such as EAD category code and TPS country)
    iii. Optional E-Verify Details
    iv. Receipts: including this additional detail will better enable employers to understand when a receipt is acceptable and under what List of Acceptable Documents the information should be placed.

d. Adding "in the U.S." after "Employee's First day of Employment" in the box requesting this information in order to clarify request relates to the first day of employment in the U.S. when employees may have transferred to the U.S. from the employer's offices abroad.

e. Reorganizing the Rehire, Reverification, Update Section into separate sections to aid employers.
    i. Section 3(A) Rehires is a section recommended on Page 2 under the Employer Certification for Section 2. This section would be used solely for rehires and would provide specific guidance for employers to compete when necessary.
    ii. The Update and Reverification portion would best be included in a separate Supplement to Form I-9. Please see information below.

AILA has drafted a "two-page" version of Form I-9 with a proposed revisions Page 2, Section 2 that is included with this comment.

III. <u>Update and Reverification Supplement for Form I-9</u>

a. Incorporating additional guidance to assist employers in determining when to "update" and when/how to "reverify" work authorization into a new Supplement to Form I-9 on Page 3.

b. Adding multiple "Update or Reverification" fields on this Page 3 to make it more employer friendly.

c. AILA has drafted a proposed Page 3, Update and Reverification Supplement, for the "two-page" version of the form that is included with this comment.

While reducing paper usage and form storage requirements are generally worthwhile concepts, AILA believes it is of paramount importance that USCIS provide employers and employees with a Form I-9 that is intuitive, easy to complete and incorporates comprehensive and readily understandable guidance. We believe our proposed version of Form I-9 will help prevent errors that not only lead to fines, but also the employment of individuals without valid work authorization, the overarching goal of this process.

Minimizing the burden of information collection through use of automation technology.

In our professional opinion, the emphasis on reducing the length of Form I-9 so that it's paper version can consist of only one page seems misplaced and runs counter to the overall direction of USCIS toward facilitating the use of technology to engage stakeholders. A more consistent and, in fact, more environmentally sensitive approach would be to invest in expanding access to an electronic Form I-9 processing system that is widely available and requires no paper.

This USCIS goal of returning to a one-page form (for section 1 and 2), seems disconnected from the trending toward software-based Form I-9 solutions, as the number of physical pages is irrelevant in an electronic environment. Regardless, if, as per federal regulations, the electronic Form I-9 is to mirror whatever form design USCIS adopts, compliance will be more difficult in the proposed compressed format.

Rather than attempting to facilitate greater use of a paper version of Form I-9, we believe USCIS should consider enhancing its electronic Form I-9 guidelines (e.g., audit trail requirements, correction procedures, etc.) to provide additional clarity and certainty for users, thus encouraging even greater use of software-based compliance solutions. Given the inexorable migration to electronic Forms I-9, this guidance would be a significant, forward-looking approach.

Enhanced reliance upon electronic Forms I-9 would also more closely align employment verification with the Administration's modernization goals for the U.S. immigration system. Focusing primarily to electronic verification tools would have the added benefit of facilitating the integration of technological enhancements in AI such as Intelligent Automation, which is a combination of Robotic Process Automation and AI technologies that empowers rapid end-to-end business process automation and accelerates digital transformation. For modernization to occur in the manner and at the pace envisioned by the Administration, the Form I-9, like most government data collection forms, should be designed and built to leverage this functionality. For the Form I-9, this path forward is clear as many private Form I-9 solution providers apply Intelligent Automation to their systems, but it must be included into the design's building blocks.

We also understand that the proposed changes to Form I-9 are significant from a vendor software development perspective in that they will require, particularly at the new Section 3, completely new programming and a new workflow. Generally, this increased difficulty is because

electronic systems can more easily map existing fields to a new form but it is much more difficult to allow reporting across new forms and old forms if they use new or different fields. This is particularly the case if USCIS modifies a field's meaning or content, in which case systems need to determine if and how reporting is to be allowed across the old and new fields at the same time. If USCIS proceeds with this proposed revision to Form I-9, we encourage the agency to invite Form I-9 software representatives to discuss the impact and implementation timeline of the new form well in advance of publication, as vendors will need adequate time to adjust their software accordingly.

Again, we believe the best strategy for enhancing compliance is not creating a condensed and potentially more confusing one page Form I-9, but rather maintaining the current two-page architecture while simultaneously enhancing the design and functionality of electronic employment verification. Since the inception of the employment verification process in 1987, a clear and consistently stated objective of this process is not unduly burdening employers with the performance of a primarily governmental function (i.e. ensuring that all foreign workers have government authorization to be employed in the U.S.).[6] Accordingly, as USCIS moves to a more fully digital interface with its user community, we believe the employment verification process should be at the forefront of this effort and we encourage USCIS to focus on the efficiencies and environmental advantages of electronic employment verification.

Conclusion

AILA appreciates the opportunity to provide feedback to the agency regarding its proposed revisions to Form I-9. AILA looks forward to a a continuing dialogue with USCIS on this and related matters.

Please address any concerns or questions to AILA Director of Government Relations Sharvari Dalal-Dheini at SDalal-Dheini@aila.org.

Sincerely,

THE AMERICAN IMMIGRATION LAWYERS ASSOCIATION

[6] As previously noted, another enhancement to the employment verification process that would reduce the burden on employers would be the permanent implementation of the virtual verification of employment authorization. Given the dramatic changes to the nature of work resulting from the Covid-19 pandemic and the corresponding acceleration of remote work options, it is critically important that employers continue to have the flexibility to fulfill their Form I-9 obligations in a virtual environment.

Employment Eligibility Verification

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

USCIS
Form I-9
OMB No. 1615-0047
Expires MM/DD/YYYY

►START HERE: Employers must ensure that the form instructions are available to employees when completing this form.

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 a job offer.)*

Last Name *(Family Name)*	First Name *(Given Name)*	Middle Initial (if any)	*Other Last Names Used (if any)*

Date of Birth (mm/dd/yyyy)	U.S. Social Security Number (Optional for Non-E-Verify Employers)	☐ SSN applied for Date SSN Added: _____
	☐☐☐ ☐☐ ☐☐☐☐	

***ATTESTATION:** I am aware that federal law provides for imprisonment and/or fines for false statements, or the use of false documents, in connection with the completion of this form. By my signature below, I attest, under penalty of perjury, that this information, including my selection of the box attesting to my citizenship or immigration status, is true and correct.*

Check one of the following boxes to attest to the basis for your employment authorization in the U.S.:

☐ 1. A citizen of the United States

☐ 2. A noncitizen national of the United States *(See instructions)*

☐ 3. A lawful permanent resident (A-Number/USCIS Number): _____

☐ 4. A nonimmigrant authorized to work ☐ (A) without expiration ☐ (B) temporarily (expiration date (mm/dd/yyyy)): _____

Check a box to the right and add enter:

1. Alien Registration Number/USCIS Number: _____
OR
2. Form I-94 Admission Number _____
OR
3. Foreign Passport Information
Passport Number _____ Country of Issuance _____

Signature of Employee	Date of Signature *(mm/dd/yyyy)*

Section 2. Employer Review and Verification

List A Identity and Employment Authorization	OR	List B Identity	AND	List C Employment Authorization
Document Title		Document Title		Document Title
Issuing Authority		Issuing Authority		Issuing Authority
Document Number		Document Number		Document Number
Expiration Date *(if any) (mm/dd/yyyy)*		Expiration Date *(if any) (mm/dd/yyyy)*		Expiration Date *(if any) (mm/dd/yyyy)*
Document Title				
Issuing Authority				
Document Number				
Expiration Date *(if any) (mm/dd/yyyy)*				
Document Title				
Issuing Authority				
Document Number				
Expiration Date *(if any) (mm/dd/yyyy)*				

Additional Information

Automatic Extension = _____
- ○ 540-Day Extension (EAD)
- ○ 240-Day Extension (Pending Ext.)
- ○ 180-Day Extension (EAD)
- ○ 180-Day STEM Extension (EAD)
- ○ 120-Day Extension
- ○ TPS Extension: _____ (MM/DD/YYYY)
- ○ AC-21
- ○ Cap Gap
- ○ OTHER: _____

Optional E-Verify Details
Case Number: _____
Result: _____
Visa Number: _____

Optional Tracking Details
- ○ EAD Category Code _____
- ○ TPS Country: _____

Receipts*
- ○ Lost, Stolen, Damaged (A/B/C)
- ○ LPR Card + I-751 Receipt (List C)
- ○ Temporary I-551
- ○ Refugee I-94 ("RE")
- ○ COVID-19 List B
- ○ OTHER: _____

*LPR Card + I-90 Receipt = not a receipt
*Temporary Driver License = not a receipt

Certification: I attest, under penalty of perjury, that (1) I have examined the documentation presented by the above-named employee, (2) the above-listed documentation appears to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

Employee's first day of employment in the U.S. *(mm/dd/yyyy)*: _____

Signature of Employer or Authorized Representative	Date of Signature *(mm/dd/yyyy)*	Title of Employer or Authorized Representative

Last Name of Employer or Authorized Representative	First Name of Employer or Authorized Representative	Employer's Business or Organization Name

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Preparer/Translator, Rehire, Update, and Reverification Supplement to Form I-9

USCIS Form I-9
OMB No. 1615-0047
Expires MM/DD/YYYY

Last Name *(Family Name)* from **Section 1.**	First Name *(Given Name)* from **Section 1.**	Middle initial (if any) from **Section 1.**

Preparer/Translator:

Use this section if someone assisted your employee in completion of the Form I-9.

PREPARER/TRANSLATOR CERTIFICATION

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.

Signature of Preparer or Translator			Today's Date *(mm/dd/yyyy)*
Last Name *(Family Name)*	First Name *(Given Name)*		
Address *(Street Number and Name)*	City or Town	State	ZIP Code

AILA PROPOSED REVISIONS
Do not use

Reverification, Update, Rehire, or Name Change:

Instructions: Only use this section if your employee has been rehired, requires an update, or requires reverification. Enter the employee's name from the Form I-9 in the fields above. Use a new section for each reverification or update. Review the Form I-9 instructions before completing this page. Keep this page as part of the employee's Form I-9 record. Additional guidance can be found in the Handbook for Employers: Guidance for Completing Form I-9 (M-274).

Reverification: If the employee's employment authorization or documentation requires reverification, the employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.

- **Reverification is required only for an employee classified as a #4 "nonimmigrant authorized to work."**
- **Initial reverification is required on or before the expiration date listed in Section 1 or the expiration date of the employment authorizing document recorded in Section 2, whichever is earlier.**
- **Subsequent reverification is required if the employee presents a time-limited employment authorization document for reverification.**

Update: If the employee's I-9 requires a documentation update, the employee can choose to present any acceptable documentation covering the category (identity and/or employment authorization) requiring the update. For example, if an employee presented a receipt for replacement of a lost driver license (a List B identity document), they may present any List A or B documentation (both of which prove identity) for the update.

Date of Rehire *(if applicable)*	New Name *(if applicable)*		
Date *(mm/dd/yyyy)*	Last Name (Family Name)	First Name (Given Name)	Middle Initial
Update or Reverification			
Document Title	Document Number	Expiration Date (if any) (mm/dd/yyyy)	
Additional Information			
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.			
Signature of Employer or Authorized Representative	Date of Signature *(mm/dd/yyyy)*	Name of Employer or Authorized Representative	

Employment Eligibility Verification

Department of Homeland Security

U.S. Citizenship and Immigration Services

USCIS
Form I-9
OMB No. 1615-0047
Expires MM/DD/YYYY

▶START HERE: Employers must ensure that the form instructions are available to employees when completing this form.

ANTI-DISCRIMINATION NOTICE: All employees can choose which acceptable documentation to present for Form I-9 purposes. Employers must not ask employees for documentation to verify information in Section 1 or specify which acceptable documentation employees must present for Section 2 or the Supplement. Treating employees differently based on their citizenship, immigration status, or national origin may be illegal.

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 a job offer.)*

Last Name *(Family Name)*	First Name *(Given Name)*	Middle Initial (if any)	Other Last Names Used *(if any)*

Address *(Street Number and Name)*	Apt. Number (if any)	City or Town	State	ZIP Code

Date of Birth (mm/dd/yyyy)	U.S. Social Security Number	Employee's E-mail Address (Optional)	Employee's Telephone Number (Optional)
	☐☐☐ ☐☐ - ☐☐☐☐		

***NOTE:** Information provided on this form may be used against you in future immigration proceedings.*

***ATTESTATION:** I am aware that federal law provides for imprisonment and/or fines for false statements, or the use of false documents, in connection with the completion of this form. By my signature below, I attest, under penalty of perjury, that this information, including my selection of the box attesting to my citizenship or immigration status, is true and correct.*

Check one of the following boxes to attest to the basis for your employment authorization in the U.S.:

☐ 1. A citizen of the United States

☐ 2. A noncitizen national of the United States *(See instructions)*

☐ 3. A lawful permanent resident (A Number/USCIS Number): _____

☐ 4. A nonimmigrant authorized to work ☐ (A) without expiration ☐ (B) temporarily (expiration date (mm/dd/yyyy)): _____

Check a box to the right and add enter:

1. Alien Registration Number/USCIS Number: _____

OR

2. Form I-94 Admission Number: _____

OR

3. Foreign Passport Number: _____

and

Country of Issuance: _____

Signature of Employee	Date of Signature *(mm/dd/yyyy)*

***If a preparer and/or translator assisted in the completion of Section 1, that individual must complete the attestation below.**

PREPARER/TRANSLATOR CERTIFICATION

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.

Signature of Preparer or Translator	Today's Date *(mm/dd/yyyy)*

Last Name *(Family Name)*	First Name *(Given Name)*

Address *(Street Number and Name)*	City or Town	State	ZIP Code

OPTIONAL: RETENTION CALCULATOR

Employers must retain the Form I-9 for 3 years from the first day of employment or 1 year from the last date of employment, whichever is later.)

First Date of Employment: _____ + 3 years = _____

Date Employment Terminated: _____ + 1 year = _____

Later of the two dates: **Retention Period Ends:**

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Employment Eligibility Verification

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

USCIS Form I-9
OMB No. 1615-0047
Expires MM/DD/YYYY

Section 2. Employer Review and Verification

Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment and must physically examine documentation from List A OR a combination of documentation from List B and List C. The Lists of Acceptable Documents (Attached) is incomplete. Please refer to the M-274 Handbook for Employers *and/or USCIS.gov/I-9central for details about acceptable receipts, automatic extensions, and other acceptable documentation.*

Employee Info from Section 1	Last Name *(Family Name)*	First Name *(Given Name)*	M.I.	Citizenship/Immigration Status

List A Identity and Employment Authorization	**OR**	**List B** Identity	**AND**	**List C** Employment Authorization
Document Title		Document Title		Document Title
Issuing Authority		Issuing Authority		Issuing Authority
Document Number		Document Number		Document Number
Expiration Date *(if any) (mm/dd/yyyy)*		Expiration Date *(if any) (mm/dd/yyyy)*		Expiration Date *(if any) (mm/dd/yyyy)*
Document Title		Additional Information		
Issuing Authority				
Document Number				
Expiration Date *(if any) (mm/dd/yyyy)*				
Document Title				
Issuing Authority				
Document Number				
Expiration Date *(if any) (mm/dd/yyyy)*				

Automatic Extension = _____
- o 540-Day Extension (EAD)
- o 240-Day Extension (Pending Ext.)
- o 180-Day Extension (EAD)
- o 180-Day STEM Extension (EAD)
- o 120-Day Extension
- o TPS Extension _____ (MM/DD/YYYY)
- o AC-21
- o Cap Gap
- o OTHER: _____

Optional E-Verify Details
Case Number: _____
Result: _____
Visa Number: _____

Optional Tracking Details
- o EAD Category Code _____
- o TPS Country: _____

Receipts*
- o Lost, Stolen, Damaged (A/B/C)
- o LPR Card + I-751 Receipt (List C)
- o Temporary I-551
- o Refugee I-94 ("RE")
- o COVID-19 List B
- o OTHER: _____

*LPR Card + I-90 Receipt = not a receipt
*Temporary Driver License = not a receipt

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DO NOT USE

Certification: I attest, under penalty of perjury, that (1) I have examined the documentation presented by the above-named employee, (2) the above-listed documentation appears to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

Employee's first day of employment in the U.S. *(mm/dd/yyyy)*: _____

Signature of Employer or Authorized Representative	Date of Signature *(mm/dd/yyyy)*	Title of Employer or Authorized Representative

Last Name of Employer or Authorized Representative	First Name of Employer or Authorized Representative	Employer's Business or Organization Name

Employer's Business or Organization Address (*Street Number and Name*)	City or Town	State	ZIP Code

Section 3(A). Rehires: If an employee is rehired within 3 years of the original I-9 completion, this Section may be used. If the rehire date is more than three years after the original I-9 completion, a new Form I-9 is required. If the employee's previous grant of employment authorization was temporary and has expired, or if a receipt was presented and the Form I-9 was not updated, you must also complete the Update and Reverification supplement.

Date of Rehire *(mm/dd/yyyy)*

Signature of Employer or Authorized Representative	Date of Signature *(mm/dd/yyyy)*	Name of Employer or Authorized Representative

Update and Reverification Supplement to Form I-9

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

USCIS Form I-9
OMB No. 1615-0047
Expires MM/DD/YYYY

Last Name *(Family Name)* from **Section 1.**	First Name *(Given Name)* from **Section 1.**	Middle initial (if any) from **Section 1.**

Instructions: Only use this page if your employee requires an update or reverification. Enter the employee's name in the fields above. Use a new section for each reverification or update. Review the Form I-9 instructions before completing this page. Keep this page as part of the employee's Form I-9 record. Additional guidance can be found in the Handbook for Employers: Guidance for Completing Form I-9 (M-274).

Reverification: If the employee's employment authorization or documentation requires reverification, the employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.

- **Reverification is required only for an employee classified as a #4 "nonimmigrant authorized to work."**
- **Initial reverification is required on or before the expiration date listed in Section 1 or the expiration date of the employment authorizing document recorded in Section 2, whichever is earlier.**
- **Subsequent reverification is required if the employee presents a time-limited employment authorization document for reverification.**

Update: If the employee's I-9 requires a documentation update, the employee can choose to present any acceptable documentation covering the category (identity and/or employment authorization) requiring the update. For example, if an employee presented a receipt for replacement of a lost driver license (a List B identity document), they may present any List A or B documentation (both of which prove identity) for the update.

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DO NOT USE

A. New Name *(if applicable)*		
Last Name *(Family Name)*	First Name *(Given Name)*	Middle Initial

Update or Reverification		
Document Title	Document Number	Expiration Date (if any) (mm/dd/yyyy)
Additional Information		
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.		
Signature of Employer or Authorized Representative	Date of Signature *(mm/dd/yyyy)*	Name of Employer or Authorized Representative

Update or Reverification		
Document Title	Document Number	Expiration Date (if any) (mm/dd/yyyy)
Additional Information		
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.		
Signature of Employer or Authorized Representative	Date of Signature *(mm/dd/yyyy)*	Name of Employer or Authorized Representative

Update or Reverification		
Document Title	Document Number	Expiration Date (if any) (mm/dd/yyyy)
Additional Information		
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.		
Signature of Employer or Authorized Representative	Date of Signature *(mm/dd/yyyy)*	Name of Employer or Authorized Representative

AILA PROPOSED REVISIONS
DO NOT USE

Update or Reverification 1

Reverification: If the employee's employment authorization or documentation requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.		
Document Title	Document Number	Expiration Date (if any) (mm/dd/yyyy)
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.		
Signature of Employer or Authorized Representative	Today's Date *(mm/dd/yyyy)*	Name of Employer or Authorized Representative

Update or Reverification 2

Reverification: If the employee's employment authorization or documentation requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.		
Document Title	Document Number	Expiration Date (if any) (mm/dd/yyyy)
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.		
Signature of Employer or Authorized Representative	Today's Date *(mm/dd/yyyy)*	Name of Employer or Authorized Representative

Update or Reverification 3

Reverification: If the employee's employment authorization or documentation requires reverification, your employee can choose to present any acceptable List A or List C documentation to show continued employment authorization. Enter the document information in the spaces below.		
Document Title	Document Number	Expiration Date (if any) (mm/dd/yyyy)
I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized to work in the United States, and if the employee presented documentation, the documentation I examined appears to be genuine and to relate to the individual who presented it.		
Signature of Employer or Authorized Representative	Today's Date *(mm/dd/yyyy)*	Name of Employer or Authorized Representative

AILA PROPOSED REVISIONS
DO NOT USE

Reverification:
Reverification is required only for an employee classified as a #4 "nonimmigrant authorized to work." Initial reverification is required on or before the expiration date listed by the employee in Section 1 or the expiration date of the employment authorizing document recorded in Section 2. Subsequent reverification is required if the employee presents a time-limited employment authorization document for reverification.

AILA PROPOSED REVISIONS
DO NOT USE

LOAD/ Form I-9 List of Acceptable Documents (LOAD): The Longer LOAD - Supplement to the Form I-9

Below is a List of Acceptable Documents Not Included on the Face of the Form I-9 Page 3 List of Acceptable Documents

LIST A	LIST B	LIST C

• Expired Permanent Resident Card with a sticker on the back extending the expiration date.
• Expired Permanent Resident Card with a Receipt for an I-90 (Application to renew or replace)
• Expired EAD Card presented with STEM OPT endorsed Form I-20 (180 Day Extension)
• Expired EAD Card with Receipt for automatic 180-Day Extension for EAD Category Codes A03, A05, A07, A08, A10, A17*, A18*, C08, C09, C10, C16, C20, C22, C24, C26* C31 or A12 or C19
  • *Form I-94 indicating unexpired nonimmigrant status for H4, E, or L; Form 797C for a timely-filed EAD renewal application (Form I-765) stating "Class requested" as "(a)(17)," "(a)(18)," or "(c)(26),: and expired EAD issued under the same category
• Expired EAD card category A12 or C19 (TPS) with Federal Register extension notice
• Expired EAD – Deferred Action for Childhood Arrivals (DACA): EAD with I-797 Extension Notice
	• Temporary Driver's License that contains a photo OR identification such as name, date of birth, gender, height, eye color, address
	• Native American Tribal documents: *as of January 2021, Federal Reserve provides a list of those eligible Indian Entities recognized by and eligible to receive services from the United States Bureau of Indian Affairs
	• Expired List B documents* (on/after March 1, 2020)
	  • Considered receipts valid for 90 days if not extended by the issuing authority due to COVID
	• NEXUS Card
	• SENTRI Card
	• Global Entry Card
	• FAST/EXPRESS Card
	• Discharge Form DD-214 or the Armed Forces of the United States report of Transfer
	• Receipts for lost, stolen or damaged documents may be used as a substitute for ANY acceptable I-9 document – acceptable for 90 days from the date of hire or, if reverifying, from the date that the employment authorization expired.
		• Expired Permanent Resident Card with an I-797 Receipt for an I-751 (Petition to Remove Conditions) OR i-829
		• I-94 Card for an Asylee is a permanent List C document – does not expire
		• F-1 may use I-94 + I-20 endorsed for Curricular Practical Training (CPT) as a List C document plus a List B document
		• J-1 may use I-94 + DS-2019 as a List C document plus a List B document
		• H-1B Portability – unexpired List B document plus unexpired I-94 (prior employee) + evidence of filing I-129 with current employer as a List C document
		• Minors that are unable to provide a List A or List B document may present a List C document and have a legal guardian establish identity by writing "Individual under age 18" in the signature field, dating and completing the Preparer/Translator section (not an option for E-Verify employers
		• Certificate of U.S. Citizenship
		• Certificate of Naturalization
		• Form I-571, Refugee Travel Document

• I-94 Card for a Refugee is a Receipt for a List A document valid for 90 days • Foreign passport + I-94 stating F-1status + D/S as expiration date + Form I-20 endorsed for Curricular Practical Training (CPT) • Foreign passport + I-94 stating J-1 status + D/S as expiration date PLUS Form DS-2019 • F-1 Student "Cap Gap": Expiring EAD card with the H-1B receipt Notice (Form I-797C) is a List A document (may use alternative evidence to document Cap Gap if the I-797C has not been issued by/received from USCIS) • H-1B Portability: Unexpired foreign passport + Form I-94 (prior employee) + evidence of filing I-129 with current employer • E-1, E-2, E-2C, E-3, and L-2 Spouse Status: To show employment authorization as a List A document, employees may present their unexpired foreign passport plus Form I-94 admission record reflecting their most recent validity period of E-1S, E-2S, E-2CS, E-3S, and L-2S nonimmigrant status. Such individuals have employment authorization "incident to status". This document shows employment		• Form I-94 containing a notation indicating that the bearer is an E or L dependent spouse • Native American Tribal documents: * note that s of January 2021, Federal Reserve provides a list of those eligible Indian Entities recognized by and eligible to receive services from the United States Bureau of Indian Affairs • I-90 Receipt Notice (I-797) and Alien Documentation, Identification & Telecommunications (ADIT) stamp if no I-551 Permanent Residence card or card expired more than 12 months ago. • U status: To show employment authorization as a List C#7 document, employees may present their Form I-94 admission record reflecting their most recent validity period of U nonimmigrant status in combination with a Form I-797C, Notice of Action, showing the Form I-485 was timely filed and the extension of current U nonimmigrant status. This document combination shows employment authorization for one year from the "Admit Until Date" on the Form I-94 (unless the Form I-485 application is

authorization through the "Admit Until Date" on the Form I-94. • Receipts for lost, stolen or damaged documents may be used as a substitute for ANY acceptable I-9 document – acceptable for 90 days from the date of hire or, if reverifying, from the date that the employment authorization expired		denied or withdrawn, whichever is earlier). To determine if the Form I-485 was timely filed, the "Received Date" on the Form I-797C should be on or before the Form I-94 "Admit Until Date." • T Status: To show employment authorization as a List C#7 document, employees may present their Form I-94 admission record reflecting their most recent validity period of T nonimmigrant status in combination with a Form I-797C, Notice of Action, showing the Form I-485 was timely filed and the extension of current T nonimmigrant status. This document combination shows employment authorization for two years from the "Admit Until Date" on the Form I-94 (unless the Form I-485 application is denied or withdrawn, whichever is earlier). To determine if the Form I-485 was timely filed, the "Received Date" on the Form I-797C should be on or before the Form I-94 "Admit Until Date." • E-1, E-2, E-2C, E-3, L-2 and H-4 Spouse Status: To show employment authorization as a List C#7 document, employees may present, in addition to an expired EAD based on the same status (category codes A17, A18, and

		C26), their Form I-94 admission record reflecting their most recent validity period of E-1, E-2, E-2C, E-3, L-2 and H-4 nonimmigrant status in combination with a Form I-797C, Notice of Action, showing the Form I-765 renewal application was timely filed. This document combination shows employment authorization for 180 days from the day the EAD card expires or the end date on the Form I-94, whichever is earlier. • E-1, E-2, E-2C, E-3, and L-2 Spouse Status: To show employment authorization as a List C#7 document, employees may present their Form I-94 admission record reflecting their most recent validity period of E-1S, E-2S, E-2CS, E-3S, and L-2S nonimmigrant status. Such individuals have employment authorization "incident to status". This document shows employment authorization through the "Admit Until Date" on the Form I-94. • Receipts for lost, stolen or damaged documents may be used as a substitute for ANY acceptable I-9 document – acceptable for 90 days from the date of hire or, if

		reverifying, from the date that the employment authorization expired

Appendix

Color Code: Per USCIS's **Who Issued This Document** (https://www.uscis.gov/i-9-central/form-i-9-acceptable-documents/who-is-issued-this-document), guidance:

Red - issued to Lawful Permanent Resident (LPR)

Blue – issued to Alien Authorized to Work (AAW)

Green – issued to US Citizen

Black – issued to Anyone

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Docket (/docket/USCIS-2006-0068) / Document (USCIS-2006-0068-0614) (/document/USCIS-2006-0068-0614) / Comment

PUBLIC SUBMISSION

Comment Submitted by AT&T Services, Inc.

Posted by the **U.S. Citizenship and Immigration Services** on Aug 8, 2022

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Attachments 1

ATT Response to USCIS 080822

Download (https://downloads.regulations.gov/USCIS-2006-0068-0694/attachment_1.pdf)

Comment ID

USCIS-2006-0068-0694

Tracking Number

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Comment Details

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August 8, 2022

Ms. Samantha Deshommes
Chief, USCIS, Office of Policy and Strategy
Regulatory Coordination Division
U.S. Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

RE: Agency Information Collection Activities; Revision of a Currently Approved Collection: Employment Eligibility Verification, OMB Control Number 1615-0047, USCIS Docket No.: USCIS-2006-068 – Proposed Changes to Form I-9, Employment Eligibility Verification

Dear Ms. Deshommes,

As one the country's largest private employers, AT&T is pleased to share feedback from our experience in onboarding thousands of employees every year. We appreciate the opportunity to comment on the proposed changes to the Form I-9.

One of the most critical areas we would like to address relates to virtual completion of the Form I-9. We agree with many of our peers and employer-advocacy groups that the employment eligibility verification process needs to evolve to meet the demands and challenges of a post-pandemic work environment where remote/virtual work has become commonplace. Since April of 2019, our I-9 administration costs have risen by 38% due to processes put in place to comply with the physical inspection requirements that also apply to remote/virtual new hires.

Several commenters have expressed their desire to see the virtual completion process made permanent and as part of that recommendation, eliminate the requirement that "[o]nce normal operations resume, all employees who were onboarded using remote verification, must report to their employer within three business days for in-person verification of identity and employment eligibility documentation…". As many of our peers have already suggested, we would like a virtual inspection process using technology such as a Zoom or other video-conferencing options to be considered sufficient to meet the inspection of documentation requirement. Perhaps, as a condition for utilizing this option, employers must agree to participate 100% in e-Verify.

January 1, 2018
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We also submit the following comments related to specific changes being proposed to the Form I-9:

Current Page # & Section	USCIS Proposed Text	AT&T Comments or Proposed Text
Page 1, Sect 1, Citizenship 4 choices	4. A noncitizen (other than Item Numbers 2 and 3 above) authorized to work until (exp. Date, if any)	We believe the use of "noncitizen" in Numbers 2 and 4 will be very confusing to new hires even with the parenthetical comment. Perhaps using the term "foreign national" will make it easier for new hires to distinguish between the 4 categories.
Page 1, Sect 1, # 4	If you check Item Number 4, enter one of these: USCIS/A-Number or Form I-94 Admission Number or Foreign Passport Number and County of Issuance) …	Typo - Listed as "County" on the I-9 form instead of Country
Page 1, Sect. 1, Citizenship status	"Check one of the following boxes to attest to your citizenship or immigration status:"	Add: "…or immigration status (See Page 2 & 3 of Instructions):"
Page 3, Supplement A, Preparer and/or Translator Certification for Section 1	Addition of name fields at the top of the page/section	Despite the guidance to enter the name "from Section 1," we are concerned that the Preparer/Translator will put their own name in those spaces. If the boxes are to be added, we recommend adding "Last Name **of the Employee** (from Section 1)".
Page 1, Sect 2, Employer Review and Verification	Employers or their authored representative must complete and sign Section 2 withing three business days after the employee's first day of employment, and must physically examine documentation from List A Or a combination of documentation from List B and List C	If the remote inspection process is not expanded/made permanent and there are no changes to in-person inspection requirement for remote employees, add: "Employers or their authored representative must complete and sign Section 2 withing three business days after the employee's first day of employment, and must physically (i.e. in-person) examine documentation from List A Or a combination of documentation from List B and List C."

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Page 1, Sec 2, Certification Portion	"I attest, under penalty of perjury, that (1) I have examined the documentation presented by the above-named employee…"	If the remote inspection process is not expanded/made permanent and there are no changes to in-person inspection requirement for remote employees, add: ""I attest, under penalty of perjury, that (1) I have examined the documentation presented by the above-named employee in-person, (2) …"
Page 1, Sect 2, List B & C	Proposal by USCIS is to remove the field names from each field under List B and List C	Would strongly suggest that the field names be left on each field as the appear in the current Section 2. Section 2 completers already have struggle with some of the fields, removing the field names will only add to confusion as many completers may not realize the first column in Sect 2 applies to List A, B, and C.
Page 1, Sect 2 Employer or Authorized Rep info	USCIS proposes adding Last Name, First Name and Title of Employer or Authorized Representative in a single field.	We suggest splitting the single field into two, one for the Last and First Name and the other for the Title of Employer or Authorized Representative. Placing all 3 data inputs in a single field will most likely lead to employers or authorized reps only providing their last and first name and missing the title.
Page 2, Sect. 2, First Day of Employment	The proposed changes removes "the employee's…" from this field.	We strongly suggest not removing "The employee's" from the first day of employment field to eliminate any confusion about what date we are looking for in that field.
Page 2, List of Acceptable Documents List C	The first acceptable document under List C is described as: 1. A Social Security Account Number card, unless the card includes one of the following restrictions: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION	Propose adding changing to: 1. A Social Security Account number card. DO NOT USE if the Social Security Card includes one of the following: (1) NOT VALID FOR EMPLOYMENT (2) VALID FOR WORK ONLY WITH INS AUTHORIZATION (3) VALID FOR WORK ONLY WITH DHS AUTHORIZATION

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We also wanted to provide our support, and thanks, for the following proposals as we believe these are all great additions that will make the form easier to comply with:

- The statement "If a preparer and/or translator assisted you in completing Section 1, that person MUST complete the Preparer and/or Translator Certification on Page 3" on page 1 of Section 1.

- "Documents extended by the issuing authority are considered unexpired" at the top of the Lists of Acceptable Documents page.

- The clarifying statement in the List of Acceptable Documents in box 7under List C explaining that the I-766 EAD card is a List A and not List C.

- The Acceptable Receipts section to the Lists of Acceptable Documents.

Thank you again for the opportunity to comment on the proposed changes. We commend your Office for taking steps to try and make it easier for employers, and employees, to comply with our employment authorization statutes while helping businesses control administrative costs.
If we can provide additional feedback or clarification on any of our comments, please feel free to have someone on your staff contact us.

Sincerely,

/s/

Sarah Roland Geffroy
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PUBLIC SUBMISSION

Comment Submitted by SHRM, the Society for Human Resource Management

Posted by the **U.S. Citizenship and Immigration Services** on Aug 9, 2022

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Enclosed please find the comment submitted by SHRM, the Society for Human Resource Management.

Attachments 1

SHRM Comment on Proposed Updates to Form I-9 8.8.2022

Download (https://downloads.regulations.gov/USCIS-2006-0068-0695/attachment_1.pdf)

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August 8, 2022

Samantha l. Deshommes
Chief, USCIS, Office of Policy and Strategy
Regulatory Coordination Division
U.S. Department of Homeland Security
5900 Capital Gateway Drive
Camp Springs, MD 20746

Submitted via www.regulations.gov
e- Docket ID number USCIS-2006-0068

RE: Agency Information Collection Activities: Revision of a Currently Approved Collection: Employment Eligibility Verification, OMB Control Number 1615-0047, USCIS Docket ID.: USCIS-2006-0068

Dear Ms. Deshommes:

SHRM, the Society for Human Resource Management, is the foremost expert, convener, and thought leader on issues impacting today's evolving workplaces. With 300,000+ HR and business executive members in 165 countries, SHRM impacts the lives of more than 115 million workers and families globally. SHRM advocates for policies that promote efficiency and fairness in the workplace and support businesses in optimizing their talent pool.

We appreciate the invitation from the U.S. Citizenship and Immigration Services ("USCIS") and the U.S. Department of Homeland Security ("DHS") to comment on its proposed update to the Form I-9. SHRM believes the employment-verification system should reflect the modern American workplace and seeks to offer the collective experience of our members to aid in this goal. Therefore, SHRM respectfully submits this comment on behalf of our 300,000+ members many of whom regularly use the Form I-9.

OVERVIEW:

SHRM acknowledges the work and effort employed by USCIS in streamlining the Form I-9 in its latest proposed iteration posted on June 17, 2022. While the proposed Form I-9 has many positive attributes, SHRM would offer the following additional comments to guide USCIS while it contemplates the final version of the Form.

a. **Expansion of Form Size:** SHRM applauds the efforts of USCIS to streamline the process and reduce the paperwork; however, we ask USCIS to reconsider separating Sections 1 and 2, or in the alternative, enlarging Section 2 to ensure HR professionals have space to accurately record initial information and perform updates and remediate errors. Additionally, it may be difficult for electronic I-9 software vendors to put all the necessary information in smaller spaces due to font size and character limitations - forcing vendors to render these updates/corrections in a manner inconsistent with current USCIS guidance.

b. **Electronic I-9 Warning:** SHRM noted potential confusion over the electronic storage of Form I-9 data. In order to assist good faith actors, SHRM recommends that within the section on the instructions that states "Form I-9 may be generated, signed and retained electronically, in compliance with the Department of Homeland Security Regulations at 8 CFR 274.a.2," USCIS should include a reminder to employers creating or storing I-9s "electronically," to review the required standards for electronic retention of Form I-9 data including electronic signature, indexing, security, and documentation requirements.

c. **Comprehensive List of Acceptable Documents:** SHRM appreciates the reference to receipts and auto-extensions on the updated Form I-9 List of Acceptable Documents but reiterates that the employment verification process would vastly improve with a centralized, searchable, and well-indexed repository for all information updates and specimens relating to acceptable documents, and strongly urges its creation and dissemination to the public. Requiring employers to check the List of Acceptable Documents, M-274, I-9 Central, and E-Verify announcements is burdensome.

d. **Section 1 Employee Verification - Social Security Field Additional Space:** SHRM recommends additional space for workers to attest that they are waiting for the issuance of a Social Security Number and the ability to update this section once a Social Security Number is issued (e.g. a checkbox for "Awaiting Social Security Number").

e. **Section 2 Employer Verification - Additional Information Box:** SHRM strongly recommends adding check boxes in the Additional Information field to include:

   1. Document Extensions;
   2. Optional Tracking Details (such as EAD category code and TPS designated country);
   3. Optional E-Verify Details (such as Case Number);
   4. Optional Retention Details (such as Termination Date and Discard Date);
   5. Optional COVID-related Details; and
   6. Receipt Update Information.

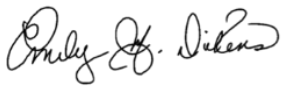
   By including fields for this specific information, employers will be able to better understand Form I-9 document requirements.

f. **Section 2 Employer Verification - Expansion of List C Fields:** Under current USCIS guidance, several document combinations serve as acceptable List C documents (e.g. an expired Permanent Resident Card and I-797C, Notice of Action). To avoid confusion and inadvertent mistakes when recording these combinations in List C, employers would benefit from a second set of List C fields.

g. **Section 2 Employer Verification - Clear Definition of "First Day":** SHRM recommends a clear definition of "First Day" in order to avoid confusion and provide flexibility (i.e. change "within 3 business days of the employee's first day of employment," to "*before* or within 3 business days of the employee's first day of employment"). This definition should also take into consideration instances when a worker's "First Day" may change due to unforeseen circumstances. The "First Day" field recorded in Section 2 should be optional in such instances.

We thank DHS and USCIS for this invitation to comment on the updated Form I-9. We hope that our comments will offer a roadmap leading to a modernized Form I-9 that enhances the ability of employers to comply fully with employment-verification requirements. SHRM is ready to continue partnering with DHS and USCIS to offer our expertise to ensure the final regulation reflects the reality of today and tomorrow's U.S. workforce, HR processes, and current and emerging technology.

Sincerely,



Emily M. Dickens
Chief of Staff, Head of Government Affairs & Corporate Secretary