



Privacy Impact Assessment  
for the

*Employment Eligibility Verification  
Requirements Under the Form I-9*

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## Abstract

The Verification Division of U.S. Citizenship and Immigration Services (USCIS) at the Department of Homeland Security (DHS) manages the business process in support of the statutory requirement that employers in the United States complete and maintain the Form I-9, *Employment Eligibility Verification*, to identify and verify employment authorization for all of their new employees. While the recent rulemakings that implemented changes to the Form I-9 do not impact privacy and thus would not ordinarily require a privacy impact assessment (PIA), USCIS conducted this PIA to provide more transparency into the design and use of the Form I-9, a key aspect of the employment eligibility verification process.

## Overview

In 1986, Congress reformed US immigration laws to ensure the American tradition of immigration while seeking to close the door to illegal entry. The employer sanctions provisions, found in section 274A of the Immigration and Nationality Act (INA), were added by the Immigration Reform and Control Act of 1986 (IRCA). These provisions further changed with the passage of the Immigration Act of 1990 and the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996. The purpose of the employer sanctions law is to require employers to hire only individuals who may legally work here: citizens and nationals of the United States, lawful permanent residents, and aliens authorized to work. To comply with the law, employers must verify the identity and employment authorization of each person they hire and complete and retain an employment eligibility verification form (Form I-9) for each employee.

Form I-9 helps employers to verify individuals who are authorized to work in the United States. Employers must complete a Form I-9 for every new employee hired after November 6, 1986.

As part of the creation of the Department of Homeland Security (DHS) with the Homeland Security Act of 2002, elements of the former Immigration and Naturalization Service (INS), including the U.S. Citizenship and Immigration Services (USCIS), which were responsible for most documentation of alien employment authorization including Form I-9, were transferred to DHS. As such, USCIS is the component of DHS that manages the employment eligibility verification process. USCIS does not collect information via this process, rather, information is collected by employers directly from their employees.

Recently, DHS changed the regulations governing the types of acceptable identity and employment authorization documents and receipts that employees may present to employers<sup>1</sup> for completion of the Form I-9, *Employment Eligibility Verification*. Beginning April 3, 2009, employers were no longer permitted to accept expired documents. The new rule also adds a new document to the list of acceptable documents that evidence both identity and employment authorization and made several technical corrections and updates.

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<sup>1</sup> The employment eligibility verification requirements apply to all employers including those recruiters and referrers for a fee who are agricultural associations, agricultural employers, or farm labor contractors. Throughout this PIA, the term *employer* will be used to refer to employers, recruiters, and referrers for a fee, unless there are distinctions among these, as, for example, in the case of the Form I-9 retention period.



The public submitted numerous comments on the notice of proposed rulemaking, however none of the comments concerned privacy issues. The interim rule amending 8 CFR part 274a, was published at 73 FR 76505 on December 17, 2008, including the corrections to the interim rule which were published on January 16, 2009, at 74 FR 2838 and March 11, 2009, at 74 FR 10455.

In addition, Title VII of the Consolidated Natural Resources Act of 2008 (CNRA), extends the immigration laws of the United States to the Commonwealth of the Northern Mariana Islands (CNMI). On October 28, 2009, DHS and the Department of Justice (DOJ) jointly published an interim final rule in the Federal Register implementing conforming amendments to DHS and DOJ regulations to comply with the Consolidated Natural Resources Act of 2008 (CNRA) *See* 74 FR 55726. As a result of this interim final rule, beginning on November 28, 2009, employers, recruiters, and referrers for a fee (hereafter referred to as employers) in the CNMI must verify the identity and employment authorization of each employee they hire, regardless of the individual's citizenship, if they will be working in the CNMI. The current Form I-9 does not contain some employment authorization documents that certain aliens in the CNMI may present. Therefore, the CNMI has a transition period with temporary measures and a separate Form I-9, called the Form I-9 CNMI. This form contains special instructions only for CNMI employers and employees and lists the documents that certain alien workers may use to demonstrate employment authorization in the CNMI until November 27, 2011. It is important to note that, unlike Form I-9, which applies to all new employees hired after November 6, 1986, the Form I-9 CNMI applies only to employees hired in the CNMI for the purpose of working in the CNMI on or after November 28, 2009. It is anticipated that the Form I-9 CNMI will no longer be used after November 27, 2011. The beginning and anticipated end dates are based on the expected adoption of regulations (*See* 74 FR 55726).

While these recent regulatory changes made to the Form I-9 do not impact privacy, USCIS conducted this PIA to provide more transparency into the Form I-9 and associated process. For the purposes of this PIA, both documents will be referred to as Form I-9, unless otherwise specifically stated as Form I-9 CNMI.

#### Employment Eligibility Verification Process

At the time of hire, the employee completes Section 1 of the Form I-9 that includes the employee's name, maiden name if applicable, address, birth date, Social Security number (SSN), and citizenship or immigration status. The new employee attests to his citizenship or immigration status, and signs and dates Section 1 of the form. A preparer or translator may assist an employee who is unable to complete the section and, if assistance is provided, the preparer or translator must also provide his name, address, date, and signature in Section 1 of the form. The SSN is an optional field unless the employee provides the Social Security card as a List C document or the employer participates in E-Verify.

Within three (3) business days of the employee starting employment, employees must present the employer with document(s) that establish their identity and employment authorization. The regulation specifically identifies which documents are acceptable to establish identity (List B documents), employment authorization (List C documents), or both identity and employment authorization (List A documents).<sup>2</sup> The employer enters the information from the document(s) in Section 2 of Form I-9, which asks for the

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<sup>2</sup> The current Lists of Acceptable Documents can be found on the last page of Form I-9.



document title, issuing authority, document number, and expiration date. The employer then must attest to having examined the documents and that the documents appear to be genuine and relate to the employee who presented them. If the documents do not appear to be genuine or relate to the employee who presented them, the employer may require additional documentation to prove identity and work authorization. The employer must also attest that he believes to the best of his knowledge that the employee is authorized to work in the United States. The employer or authorized representative provides their name, title, the business name and address, date, and signature. The information on Form I-9 is not verified against DHS or Social Security Administration (SSA) databases unless the employer participates in E-Verify, which is the system used by some employers to electronically verify employment eligibility using the information from Form I-9. E-Verify is unavailable to verify CNMI employers and information collected from Form I-9 CNMI therefore employers in the CNMI will not be allowed to register with E-Verify, and information on Form I-9 CNMI is not verified against DHS or SSA databases. The E-Verify program is described in a separate PIA<sup>3</sup> and system of records notice (SORN).<sup>4</sup>

The employee may provide any one document from List A or a combination of documents, one from List B and one from List C. The employer may not specify which of the approved documents the employee must provide. There are special procedures for accepting receipts if an employee cannot provide a document because it has been lost, stolen, or mutilated and he or she has applied for a replacement. An employee also may provide an approved document that shows temporary employment authorization, which the employer may be required to reverify when it expires. The Form I-9 instructions and the *Handbook for Employers: Instructions for Completing Form I-9 (M-274)* will provide the specific action, if any, that the employer must take.

If an employer rehires an employee who has completed Form I-9 within three years of the initial hiring date, the employer may either complete a new Form I-9 or Section 3 of the old Form I-9. Section 3 asks for name if changed, date of rehire, new document information if the original employment authorization has expired. Also, the employer must attest again to the document review and employee's authority to work.

Once Form I-9 is complete, the employer must retain it for three years from the date of hire or one year from the date employment ends, whichever is later. Recruiters and referrers for a fee must retain Form I-9 for three years from the date of hire. The employer may, but is not required to, make copies of the documents that employees present. If the employer does copy these documents, he or she must do so for all employees and the document copies must be retained by the employer with Form I-9.

The employer may retain Forms I-9 on paper, microfilm, microfiche, or electronically. Employers who choose to retain them electronically may use any system they choose, provided that the employers include:

- controls to ensure the integrity, accuracy and reliability of the electronic generation or storage system;

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<sup>3</sup> All DHS PIAs and SORNs can be found at [www.dhs.gov/privacy](http://www.dhs.gov/privacy).

<sup>4</sup> 73 FR 75445 DHS/USCIS-004 - Verification Information System (VIS)



- controls designed to prevent and detect the unauthorized or accidental creation of, addition to, alteration of, deletion of, or deterioration of an electronically completed or stored Form I-9, including the electronic signature if used; and
- an inspection and quality assurance program evidenced by regular evaluations of the electronic generation or storage system, including periodic checks of the electronically stored Form I-9, including the electronic signature if used.<sup>5</sup>

These requirements are to encourage employers to keep the forms confidential and maintain an audit trail of who has accesses the files. DHS does not prescribe the specific controls or programs necessary to meet these requirements. Employers control the completed Forms I-9 and accompanying documents, which they will manage and protect based on the particular circumstances for each employer.

The employment eligibility verification process gives extensive guidance to employers on how to collect this information and to avoid discriminating against employees during the Form I-9 process. The employer must use Form I-9 only for employment eligibility verification. The employer must not provide completed Forms I-9 to any organization except for purposes of enforcement of the Immigration and Naturalization Act (INA) and 18 U.S.C. §§ 1001, 1028, 1546, or 1621. Authorized officials from DHS, the Department of Labor (DOL), and the Department of Justice (DOJ) Office of Special Counsel for Immigration-Related Unfair Employment Practices (OSC) requesting access to this information must provide the employer with three (3) business days notice.

## Section 1.0 Characterization of the Information

*The following questions are intended to define the scope of the information requested and/or collected as well as reasons for its collection as part of the program, system, rule, or technology being developed.*

### 1.1 What information is collected, used, disseminated, or maintained in the system?

USCIS does not collect information via this process; information is collected by employers only, directly from their employees. Employers only collect those data fields contained on the Form I-9. The new rulemaking does not change what data is collected. The data fields that could be collected are as follows:

- Employee
  - Name (Last, First, Middle Initial, Maiden)
  - Address
  - Date of Birth
  - Social Security Number (voluntary unless the employer participates in E-Verify, in which case it is necessary for continued employment)
  - Citizenship or Immigration Status (U.S. Citizen, Noncitizen National, Lawful Permanent Resident, or Alien Authorized to Work in the United States)
  - Signature

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<sup>5</sup> 8 CFR 274a.2 (e)-(i)



- Date of Signature
- Preparer/Translator (if appropriate)
  - Name
  - Address
  - Signature
  - Date of Signature
- Document(s) as set forth in Lists A, B or C
  - Title
  - Issuing Authority
  - Number (e.g., driver's license number)
  - Expiration Date (if any)
- Employer (or Employer's Authorized Representative)
  - Name
  - Title
  - Signature
  - Date of Signature
  - Business or Organization Name and Address
- Updating and Reverification (if applicable)
  - New Name (if applicable)
  - Date of Rehire (month/day/year)(if applicable)
  - In the case of an expired Employment Authorization Document (USCIS Form I-766), new document establishing employment authorization, document number and expiration date (if any)
  - Signature of Employer's or Authorized Representative
  - Date of Employer's or Authorized Representative's Signature

## 1.2 What are the sources of the information in the system?

The information on Form I-9 comes from:

- Employees who provide basic information about themselves and attest to their own immigration status;
- The preparers/translators, if applicable, who provide information about themselves;
- Document(s) provided by the employee and other information the employer enters on the form, as described in Section 1.1;<sup>6</sup> and
- The employer or his authorized representative who attests to having reviewed the documents, to determining that they reasonably appear to be genuine and relate to the individual presenting it, and believing the employee to be authorized to work in the United States.

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<sup>6</sup> The specific documents that may be used are listed on Form I-9, but they contain information that can establish identity (List B documents), employment authorization (List C documents), or both identity and employment authorization (List A documents).



### **1.3 Why is the information being collected, used, disseminated, or maintained?**

DHS requires that employers collect the Form I-9 information to verify employment authorization of the employer's new hires. This involves both reasonably identifying the employee and verifying the authority under which the employee is eligible to work. The SSN is an optional field on Form I-9 unless the employee presents the Social Security card as their List C document or the employer participates in E-Verify. E-Verify is unavailable to verify CNMI employers and information collected from Form I-9 CNMI therefore employers in the CNMI will not be allowed to register with E-Verify. The E-Verify program is described in the PIA and SORN for that program.<sup>7</sup>

### **1.4 How is the information collected?**

The information is collected by the employer when the employee, employer, and preparer/translator, if applicable, complete Form I-9, Employment Eligibility Verification (OMB No. 1615-0047) or Form I-9 CNMI, Employment Eligibility Verification (OMB No. 1615-0112). While DHS does not directly collect the information, it requires that employers collect it, and may request Forms I-9 as part of an ICE enforcement activity or as part of monitoring and compliance activities if the employer is a user of the E-Verify system.

### **1.5 How will the information be checked for accuracy?**

Although the employer and employee are required to complete the form, Form I-9 is not checked for accuracy by DHS, SSA, or any other agency at the time of initial completion. The employee, employer, and preparer/translator, if applicable, each complete the sections about themselves. The employer enters the information from the employee's document(s). The employer must attest that he believes the documents are genuine and relate to the employee, but in most cases, the employer does not specifically confirm the information. Some employers do self audits to ensure the accuracy of the information collected on Form I-9. DHS or SSA may contact the employer to verify information on Form I-9 if they suspect that an employee may not be authorized to work. This may happen through the E-Verify process or outside of E-Verify. For example, SSA may send a notice to the employer if employees' names and corresponding SSNs in earnings report fail to match Social Security Administration records.

### **1.6 What specific legal authorities, arrangements, and/or agreements defined the collection of information?**

Form I-9 is required by the Immigration Reform and Control Act of 1986, Pub. L. 99-603, (8 U.S.C. § 1324a) and regulations at 8 CFR 274a. Form I-9 requirements were extended to the CNMI by Pub. L. 110-229, Title VII, 122 Stat. 754, 853 (2008). The specific form for use in the CNMI is also required at 8 CFR 274a.

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<sup>7</sup> 75 FR 28035 DHS/USCIS-011 - E-Verify Program; the E-Verify PIA, dated May 4, 2010, can be found on the DHS Privacy website, [www.dhs.gov/privacy](http://www.dhs.gov/privacy).





## **1.7 Privacy Impact Analysis: Given the amount and type of data collected, discuss the privacy risks identified and how they were mitigated.**

While the recent regulatory changes made to the Form I-9 do not impact privacy, USCIS conducted this PIA to provide more transparency into the Form I-9 and associated process. Employers are required to complete Forms I-9 for all new employees hired on or after November 6, 1986, or, the Form I-9 CNMI for employees hired in the CNMI on or after November 28, 2009 employers must and retain Form I-9s for a period of three years from the date of hire or one year from the date employment ends, whichever is later. The form contains a significant amount of personal information that, if misused or mishandled, could result in identity theft. Employers control the completed Forms I-9 and accompanying documents, which they will manage and protect based on their own particular circumstances. If an employer decides to retain the Forms I-9 electronically the government requires that the system enforce controls to ensure the integrity, accuracy and reliability of the Form I-9 information. In addition, the system must be designed to prevent and detect the unauthorized or accidental creation of, addition to, alteration of, deletion of, or deterioration of an electronically completed or stored Form I-9, including the electronic signature if used. The employer must also have an inspection and quality assurance program, which includes periodic checks of the electronically stored Form I-9, including the electronic signature if used.

## **Section 2.0 Uses of the Information**

*The following questions are intended to clearly delineate clearly the use of information and the accuracy of the data being used.*

### **2.1 Describe all the uses of information.**

USCIS requires that employers collect this information to verify employment authorization, but USCIS does not collect or use the information directly. The employer uses information on Form I-9 to determine the employment authorization of the employee who completed the form.

Employers who participate in E-Verify may enter information from Form I-9 into E-Verify, which compares the information to various Federal government databases, to verify the employment authorization of the employee. DHS, Department of Justice (DOJ), and Department of Labor (DOL) may use the information from Form I-9 for enforcement of the Immigration and Nationality Act and 18 U.S.C. §§ 1001, 1028, 1546, or 1621 to enforce employment authorization laws. The recent regulatory changes have not changed the original uses for information collected on the Form I-9.

### **2.2 What types of tools are used to analyze data and what type of data may be produced?**

DHS does not analyze Form I-9 information, nor is additional data produced, and DHS does not instruct employers to do so with the data. However, employers who participate in E-Verify submit





information from Form I-9 into the E-Verify system, which will be electronically verified against various Federal government databases to verify the employment authorization of the employee.<sup>8</sup>

## **2.3 If the system uses commercial or publicly available data please explain why and how it is used.**

DHS does not instruct employers to use commercial or publicly available data in verifying employment eligibility.

## **2.4 Privacy Impact Analysis: Describe any types of controls that may be in place to ensure that information is handled in accordance with the above described uses.**

DHS requires that employers only use the information from Forms I-9 for employment eligibility verification and the enforcement of the INA and 18 U.S.C. §§ 1001, 1028, 1546, or 1621. Authorized government officials perform audits only in those cases where there is a legitimate reason for initiating a law enforcement action. There are statutory and regulatory restrictions on the control of the information collected, and none of the recent regulatory changes highlighted in this PIA impact those restrictions.

## **Section 3.0 Retention**

*The following questions are intended to outline how long information will be retained after the initial collection.*

### **3.1 What information is retained?**

The employer retains the completed Form I-9 and any copies of documents supporting the Form I-9 process. Photocopies of the documents that support Form I-9 are not required, but if an employer makes copies, these copies must be retained with Form I-9.

If Forms I-9 are collected by the government in the course of an enforcement action, they will be retained in accordance with the retention schedule for that particular collection. What is actually retained and how long it will be retained will vary depending on the enforcement action. For example, some federal agencies such as U. S. Immigration and Customs Enforcement, may collect Forms I-9 during a workplace enforcement effort. These would be placed in ENFORCE, a DHS system of records that would allow the information to be used for law enforcement purposes.<sup>9</sup>

### **3.2 How long is information retained?**

While DHS does not directly collect the information, it requires that employers collect it, and that employers retain Form I-9 and, if applicable, the copies of supporting documents, for three years after the

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<sup>8</sup> All DHS PIAs and SORNs, including those for E-Verify, can be found at [www.dhs.gov/privacy](http://www.dhs.gov/privacy).

<sup>9</sup> 75 FR 9238 DHS/ICE-011 - Immigration Enforcement Operational Records System (ENFORCE).



date of hire or one year after the date of the individual's employment is terminated, whichever is later. Recruiters or referrers for fee retain Form I-9 and copies of supporting document, if applicable, for three years after the date of hire. Thus, the form is retained by the employer for a minimum of three years, but could be retained longer depending on the length of employment.

### **3.3 Has the retention schedule been approved by the component records officer and the National Archives and Records Administration (NARA)?**

The government does not collect or retain Form I-9, so there is no need for a NARA retention schedule.

### **3.4 Privacy Impact Analysis: Please discuss the risks associated with the length of time data is retained and how those risks are mitigated.**

Employers and recruiters or referrers for fee retain the information for a minimum of three years and may retain it longer depending on the length of an individual's employment. This retention period is fairly minimal and allows for a period of time during which it may be possible to determine whether an employee has used fraudulent identity documents as part of the Form I-9 process. There is a risk that the information could be misused during the retention period. This is mitigated in part by the fact that the employer remains responsible for ensuring that Form I-9 is not misused even after termination of the employee. Recent regulatory changes have no bearing on the retention period for Form I-9.

## **Section 4.0 Internal Sharing and Disclosure**

*The following questions are intended to define the scope of sharing within the Department of Homeland Security.*

### **4.1 With which internal organization(s) is the information shared, what information is shared and for what purpose?**

USCIS has no direct control over Forms I-9/Forms I-9 CNMI because they are collected and maintained by employers and thus USCIS does not share this data. Employers share Form I-9 information with DHS representatives for two purposes. First, employers may share Form I-9 information as requested by an authorized DHS officer for enforcement of the INA and 18 U.S.C. §§ 1001, 1028, 1546, or 1621. In this case, the employer will share the form and supporting documents with the authorized DHS officer. Second, employers who participate in E-Verify submit information from Form I-9 into the E-Verify system, which will be electronically verified against various Federal government databases for the purpose of electronically verifying the employment authorization of the employee. Since E-Verify is not currently



available to employers in the CNMI, information on the Form I-9 CNMI cannot be shared with E-Verify. The E-Verify program is described in a separate PIA<sup>10</sup> and system of records notice (SORN).<sup>11</sup>

## 4.2 How is the information transmitted or disclosed?

Employers must provide Forms I-9 to authorized officials from DHS who request access to them within three days. The DHS officials will review the forms and determine if they contain information that may aid in a law enforcement investigation. If so, they may keep copies of the forms. DHS officials must protect these forms as they would any document associated with a law enforcement investigation.

Employers who participate in E-Verify must enter the information from Form I-9 into the E-Verify web site for verification purposes. This is a secure web site for registered employers. Since E-Verify is not currently available to employers in the CNMI, information on the Form I-9 CNMI cannot be shared with E-Verify. Details of the E-Verify program may be found in the E-Verify PIA and SORN at [www.dhs.gov/privacy](http://www.dhs.gov/privacy).

## 4.3 Privacy Impact Analysis: Considering the extent of internal information sharing, discuss the privacy risks associated with the sharing and how they were mitigated.

Risks of inappropriate sharing by USCIS are limited given that employers collect and maintain the Form I-9. Employers only share Forms I-9 with DHS for specified law enforcement purposes or because they participate in E-Verify.

## Section 5.0 External Sharing and Disclosure

*The following questions are intended to define the content, scope, and authority for information sharing external to DHS which includes Federal, state and local governments, and the private sector.*

### 5.1 With which external organization(s) is the information shared, what information is shared, and for what purpose?

The government does not collect Form I-9 in the normal business process, so it cannot share the information. The employer may only share Form I-9 and any copies of supporting documents, if retained, with authorized officials for enforcement of the INA and 18 U.S.C. §§ 1001, 1028, 1546, or 1621.

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<sup>10</sup> All DHS PIAs and SORNs can be found at [www.dhs.gov/privacy](http://www.dhs.gov/privacy).

<sup>11</sup> 73 FR 75445 DHS/USCIS-004 - Verification Information System (VIS).



**5.2 Is the sharing of personally identifiable information outside the Department compatible with the original collection? If so, is it covered by an appropriate routine use in a SORN? If so, please describe. If not, please describe under what legal mechanism the program or system is allowed to share the personally identifiable information outside of DHS.**

Sharing with DOJ and DOL for enforcement of the INA and 18 U.S.C. §§ 1001, 1028, 1546, or 1621 supports the purpose of employment eligibility verification and is the express regulatory limitation for sharing Forms I-9.<sup>12</sup>

**5.3 How is the information shared outside the Department and what security measures safeguard its transmission?**

Employers must provide Forms I-9 to authorized officials from DOJ or DOL who request access to them within three days. DOJ and DOL officials will review the forms to determine whether the information may aid in a law enforcement investigation. If so, they may keep copies of the forms. They must protect these forms as they would any document associated with a law enforcement investigation.

**5.4 Privacy Impact Analysis: Given the external sharing, explain the privacy risks identified and describe how they were mitigated.**

External sharing is very limited. Employers only share the forms with DOJ or DOL because these organizations have a legal obligation to collect and use this information. Section 274a.2(b)(4) limits the use of the information collected for the Form I-9 to verifying an individual's identity and employment eligibility and for the enforcement of the Immigration and Naturalization Act and 18 U.S.C. §§ 1001, 1028, 1546, or 1621.

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<sup>12</sup> 8 CFR 274a.2(b)(4)



## Section 6.0 Notice

*The following questions are directed at notice to the individual of the scope of information collected, the right to consent to uses of said information, and the right to decline to provide information.*

### **6.1 Was notice provided to the individual prior to collection of information?**

The Privacy Act Notice in the Form I-9 instructions provides the following:

#### ***Privacy Act Notice***

The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 USC 1324a).

This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States.

This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by authorized officials of the Department of Homeland Security, Department of Labor, and Office of Special Counsel for Immigration-Related Unfair Employment Practices.

Submission of the information required in this form is voluntary. However, an individual may not begin employment unless this form is completed, since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.

This PIA also provides notice of this collection.

### **6.2 Do individuals have the opportunity and/or right to decline to provide information?**

All employees hired on or after November 6, 1986, must complete Form I-9, or, in the case of employees hired in the CNMI on or after November 28, 2009, must complete the Form I-9 CNMI after being hired for employment. Completing Form I-9 is voluntary. However, an individual may not be employed unless they complete the form. Employees do have the option of which documents they present to meet the documentary requirements of Section 2 of Form I-9, but cannot refuse to provide documentation. The SSN is an optional field unless the employee provides the Social Security card as a List C document or the employer participates in E-Verify.



### **6.3 Do individuals have the right to consent to particular uses of the information? If so, how does the individual exercise the right?**

No, individuals have no right to consent to particular uses of the information.

### **6.4 Privacy Impact Analysis: Describe how notice is provided to individuals, and how the risks associated with individuals being unaware of the collection are mitigated.**

The risk that individuals are unaware of the collection of their information are minimal. The Form I-9 instructions provide notice of this collection.

The Form I-9 instructions also provide contact information for general information related to immigration laws, regulations, and procedures in the case that an employee is concerned about the use of their information on the Form I-9. Employees are instructed to contact the USCIS National Customer Service Center either by phone or via the USCIS website.

## **Section 7.0 Access, Redress and Correction**

*The following questions are directed at an individual's ability to ensure the accuracy of the information collected about them.*

### **7.1 What are the procedures that allow individuals to gain access to their information?**

The information on Form I-9 is both collected by and controlled by the employer. While DHS does require the employer to collect the information from the employee, it is not actively involved in the collection or storage of the form, and does not require employers to allow an employee access to this information once the employee has completed the form.

### **7.2 What are the procedures for correcting inaccurate or erroneous information?**

DHS requires that employers ensure that Section 1 of Forms I-9 are timely and properly completed. However, no specific requirements exist for correcting information on Form I-9 after completion, since the information on Form I-9 is both collected by and controlled by the employer, and DHS is not actively involved in the collection or storage of the form.



### **7.3 How are individuals notified of the procedures for correcting their information?**

Employees are instructed to complete the forms accurately and employers are responsible for ensuring that Form I-9 is timely and properly completed. Any notification about procedures for correcting their information would be conducted at the employer level.

### **7.4 If no formal redress is provided, what alternatives are available to the individual?**

There are no formal redress provisions offered through DHS. Since the information on Form I-9 is both collected by and controlled by the employer, and DHS is not actively involved in the collection or storage of the form, the employee must work with the employer to redress any issues.

### **7.5 Privacy Impact Analysis: Please discuss the privacy risks associated with the redress available to individuals and how those risks are mitigated.**

Privacy risks associated with potential inaccuracies on the Form I-9 are mitigated at the employer level. Employers are responsible for ensuring that Section 1 of Forms I-9 are timely and properly completed.

## **Section 8.0 Technical Access and Security**

*The following questions are intended to describe technical safeguards and security measures.*

### **8.1 What procedures are in place to determine which users may access the system and are they documented?**

Generally an employer must keep Forms I-9 secure and protected, although no specific controls are required unless the forms are retained electronically. If an employer retains Forms I-9 electronically, he must ensure that only authorized personnel have access to the electronic system. The employer must provide Forms I-9 to authorized agencies at their request for enforcement of the INA 18 U.S.C. §§ 1001, 1028, 1546, or 1621.

### **8.2 Will Department contractors have access to the system?**

Department contractors do not have access to employers' collections of Forms I-9.





### **8.3 Describe what privacy training is provided to users either generally or specifically relevant to the program or system?**

No privacy training is provided to employers. Government officials who request access to the forms from employers will have received general government security and privacy training.

### **8.4 Has Certification & Accreditation been completed for the system or systems supporting the program?**

No government system supports Form I-9 requirements. Government officials who request Forms I-9 from an employer based on allowable law enforcement uses would collect and maintain the forms in that particular system. That system and its certification and accreditation status will be described in the PIA for that particular system.

### **8.5 What auditing measures and technical safeguards are in place to prevent misuse of data?**

Employers who retain Forms I-9 electronically must implement systems or policies that ensure that Forms I-9 will be protected and can be audited. The employer must do the following to prevent misuse of data<sup>13</sup>:

- Use a system that has reasonable controls to ensure accuracy and reliability of the electronic storage system;
- Use a system that has reasonable controls designed to prevent and detect the unauthorized or accidental creation of, addition to, alteration of, deletion of, or deterioration of an electronically completed or stored Form I-9/Forms I-9 CNMI, including the electronic signature, if used;
- Develop an inspection and quality assurance program that regularly evaluates the electronic generation or storage system, and includes periodic checks of electronically stored Forms I-9, including the electronic signature, if used;
- Enact controls to ensure that only authorized personnel have access to the electronic records;
- Provide for backup and recovery of records to protect against information loss;
- Ensure that employees are trained to minimize the risk of unauthorized or accidental alteration or erasure of electronic records; and
- Ensure that whenever an individual creates, accesses, views, updates, or corrects an electronic record, the system creates a secure and permanent record that establishes the date of access, the identity of the individual who accessed the electronic record, and the particular action taken.

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<sup>13</sup> 8 CFR 274a.2(e)



## **8.6 Privacy Impact Analysis: Given the sensitivity and scope of the information collected, as well as any information sharing conducted on the system, what privacy risks were identified and how do the security controls mitigate them?**

Controls put in place to mitigate risks against employer misuse of data include a specific prohibition for misusing the information collected for Form I-9 and specific requirements to implement systems or policies that ensure that Forms I-9 will be protected and can be audited if an employer chooses to store the information electronically. The government can also verify employers' handling of Forms I-9 if the government is notified of a potential problem.

In addition, employers may only share forms with officials from DOJ, DHS, and DOL for enforcement of the INA and 18 U.S.C. §§ 1001, 1028, 1546, or 1621. This limited sharing is specified in law and minimizes the risk that the information will be inappropriately shared.

## **Section 9.0 Technology**

*The following questions are directed at critically analyzing the selection process for any technologies utilized by the system, including system hardware, RFID, biometrics and other technology.*

### **9.1 What type of project is the program or system?**

Form I-9 supports a legislatively mandated requirement for employers to verify the employment authorization of their newly hired employees. Employers, rather than the government, maintain forms in either hard copy or electronic format.

### **9.2 What stage of development is the system in and what project development lifecycle was used?**

Employers have been required to complete Forms I-9 for all newly hired employees since November 6, 1986. The form has been available since that time and has been revised several times. Since November 28, 2009, employers have been required to complete Form I-9 CNMI for employees hired in the CNMI for the purpose of working in the CNMI.

### **9.3 Does the project employ technology which may raise privacy concerns? If so please discuss their implementation.**

No. Form I-9 is a paper-based form and DHS requires employers who store the forms electronically to implement controls to safeguard Form I-9 data as described in Section 8.



## Responsible Officials

Claire Stapleton, Chief  
Privacy Branch  
Verification Division  
United States Citizenship and Immigration Services  
Department of Homeland Security

## Approval Signature

Original signed copy on file with the DHS Privacy Office

Mary Ellen Callahan  
Chief Privacy Officer  
Department of Homeland Security