

November 28, 2016



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USCIS Releases A Revised Form I-9, Employment Eligibility Verification

Update to original publication:

As a reminder to U.S. employers, as of January 22, 2017, the revised Form I-9 (dated November 14, 2017) became mandatory for use, and is now the only acceptable version of Form I-9. It is no longer acceptable for employers to use prior versions of the form I-9 for documenting an employee's change of name, reverification of U.S. work authorization, and/or rehire. As of January 22, 2017, if Section 3, Reverification and Rehires, needs to be completed for any employee, for any reason, the employer must complete Section 3 of the current (November 14, 2017) version of Form I-9 and retain it with the previously completed Form I-9.

Please also note that on January 22, 2017, USCIS released a revised M-274, Handbook for Employers, Guidance for Completing Form I-9, which is a valuable resource for employers. On November 14, 2016, United States Citizenship and Immigration Services ("USCIS") published a revised version of Form I-9, Employment Eligibility Verification ("Form I-9"). Established by the Immigration Reform and Control Act ("IRCA"), Form I-9 is used to verify the identity and employment authorization of all individuals, including U.S. citizens, hired for employment in the United States. All U.S. employers, regardless of size, must ensure proper completion and retention of Form I-9 for each new employee hired after November 6, 1986.

Beginning on January 22, 2017, employers must only use the revised Form I-9 version dated November 14, 2016. USCIS has allowed a grace period through January 21, 2017 when employers may continue to use the Form I-9 version dated March 8, 2013. Both the revised Form I-9 and the prior version may be found on USCIS' website: <https://www.uscis.gov/i-9>.

Generally, the revisions made to Form I-9 were designed to make it more user-friendly, to reduce errors and to enhance form completion using a computer. Some of the most notable changes include:

- Informational prompts are included on the form;
- Employees only need to provide "other last names used" in Section 1, Employee Information and Attestation, rather than all "other names used";
- The employee certification in Section 1 is streamlined for certain foreign nationals;



- There is an addendum page to enter multiple preparers and translators, when applicable; and
- In Section 2, Employer or Authorized Representative Review and Verification, there is a dedicated area to enter additional information that employers have previously been required to notate in the margins of the form.

Further enhancements were made to the Form I-9 that will appear when completing it electronically on a computer. Users will see:

- Checks to certain fields to ensure information is entered correctly;
- Drop-down lists and calendars;
- Instructions on the screen that users can access to complete each field; and
- Buttons that will allow users to access the instructions electronically, print the form, and clear the form to start over.

The Form I-9 instructions have been updated to include a field-by-field guide to completion, and to address common issues that arise during completion. The revised instructions have also been separated into a distinct document from the revised Form I-9, in line with USCIS' general practice. While USCIS has indicated it will soon issue a revised M-274, Handbook for Employers, Guidance for Completing Form I-9, it has yet to do so. In the meantime, USCIS refers users to the revised Form I-9 instructions, found on its website (<https://www.uscis.gov/i-9>) for the most up-to-date information. Notably, the list of acceptable documents that the employee may present in order to establish identity and employment authorization remains the same.

While the Form I-9 may seem relatively straightforward to employers, its completion can be complex and the rules surrounding it constantly evolve, which leads to large fines and other penalties for not completing and retaining the forms correctly. For this reason, we recommend reaching out to an experienced immigration attorney when questions arise regarding the Form I-9.

Questions or Assistance:

If you have any questions about this alert, please feel free to contact Brenda Eckert at beckert@goodwin.com or (860) 251-5712 or Ashley Mendoza at amendoza@goodwin.com or (860) 251-5018.

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