



IMMIGRATION PRACTICE AREA

ALERT

USCIS REVISES EMPLOYMENT ELIGIBILITY VERIFICATION FORM I-9

By Alka Bahal

Partner & Co-Chair, Corporate Immigration Practice

On November 7, 2007, U.S. Citizenship and Immigration Services (USCIS) issued a revised Employment Eligibility Verification Form (I-9) and updated the Handbook for Employers, Instructions for Completing the Form I-9 (M-274). All U.S. employers are required to complete a Form I-9 for each employee hired in order to verify that the individual is authorized for employment in the United States under the Immigration Reform and Control Act of 1986 (IRCA).

The revision is intended to achieve full compliance with the document reduction requirements of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), which reduced the number of documents employers may accept from newly hired employees during the employment eligibility verification process. In 1997, the former Immigration and Naturalization Service (INS) published an interim final rule eliminating some of the documents IIRIRA slated for removal, but the Form had not been updated to reflect the revised List of Acceptable Documents until now.

Key Points:

1. Employers are encouraged, but not yet required, to start using the new Form immediately. Once the notice is published in the *Federal Register*, the new Form I-9 will be mandatory, and all previous versions (in English or Spanish) will no longer be valid.
2. Employees are no longer required to provide a Social Security number in Section 1 (Employee Information and Verification), except for

employees hired by employers participating in the USCIS Electronic Employment Eligibility Verification Program (E-Verify).

3. Employers should only use the new Form for new employees or if completing the reverification process for an existing employee. Employers do not need to complete new forms for existing employees for whom an I-9 already has been completed.
4. The Form is available in English and Spanish, however, **ONLY** employers in Puerto Rico may have employees complete the Spanish version. Employers in the 50 states and other U.S. territories may use the Spanish version as a *translation* guide for Spanish-speaking employees, but must complete the English version for the employer's records. Employees may also use or ask for a translator/preparer to assist them in completing the form.

Changes to Document List A

Five documents removed

1. Certificate of U.S. Citizenship (Form N-560 or N-570)
2. Certificate of Naturalization (Form N-550 or N-570)
3. Alien Registration Receipt Card (Form I-151)
4. Unexpired Reentry Permit (Form I-327)
5. Unexpired Refugee Travel Document (Form I-571)

One document added

1. Employment Authorization Document (Form I-766) [the most recent version]

There are no changes to Lists B or C. A copy of the new Form I-9 can be found at <http://www.uscis.gov/files/form/I-9.pdf> and the new Handbook can be found at <http://www.uscis.gov/files/nativedocuments/m-274.pdf>.

The new Handbook contains updated examples of completed I-9s and updated, color copies of various acceptable documents.

Fox Rothschild will provide an update when the Rule becomes final. For more information regarding the issues addressed in this *Alert*, please contact the author at 973.994.7800 or abahal@foxrothschild.com or another member of the Fox Rothschild Immigration Practice. Visit us on the web at www.foxrothschild.com



Fox Rothschild LLP
ATTORNEYS AT LAW

Attorney Advertisement

© 2007 Fox Rothschild LLP. All rights reserved. This publication is intended for general information purposes only. It does not constitute legal advice. The reader should consult with knowledgeable legal counsel to determine how applicable laws apply to specific facts and situations. This publication is based on the most current information at the time it was written. Since it is possible that the laws or other circumstances may have changed since publication, please call us to discuss any action you may be considering as a result of reading this publication.