New Form I-9 and Documentary Requirements

Effective 3 April 2009, all employers in the United States are required to use the February 2009 version of the Form I-9 and meet new documentary requirements. A new version of the form was published on 7 August 2009, and should now be used (see the link below), although USCIS will still accept the February 2009 version.

The new rule:

1. Requires that all documents presented during the verification process be unexpired;
2. Eliminates List A identity and employment authorization documentation forms I-688, I-688A, and I-688B;
3. Adds to List A foreign passports with Machine Readable Immigrant Visas that contain a “temporary I-551” notation on the visa;
4. Adds to List A valid passports for citizens of the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI), along with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI; and
5. In Section 1 of the Form I-9, requires the employee to check either “citizen” or “noncitizen national” of the United States.

Noncitizen nationals are people born in American Samoa, certain former citizens of the former Trust Territory of the Pacific Islands, and certain children of noncitizen nationals born abroad. Although U.S. nationals do not possess full U.S. citizenship, they may enter and work in the U.S. without restriction. This definition is included in the instructions on the new Form I-9.

Furthermore, either the February 2009 or August 2009 version of the Form I-9 must be used whenever an employee with work authorization that has an expiration date must be reverified.

Other changes that were announced in 2008 also have been incorporated into the new Form I-9. The new State Department U.S. Passport Card is a valid I-9 document under List A, along with a U.S. passport. The Passport Card is issued to U.S. citizens in lieu of a U.S. passport to facilitate travel at land and sea ports of entry into the U.S. The card is not valid for air travel. For additional information on the Passport Card, see the State Department's web site: http://travel.state.gov/passport/ppt_card/ppt_card_3926.html.

Employees are no longer required to write their Social Security number in Section 1. The list of documents must be given to the employee along with the form, but it may be on a separate sheet. Previously, the list had to be copied on the back of the form. We suggest you complete your name, title and address (full street address, not just the building address) in Section 2 before photocopying the form.

Although the form is now available in Spanish, only employers in Puerto Rico may complete the Spanish version of the I-9. We can use the Spanish version as a translation guide for Spanish speaking employees, but the English version must be completed and retained.