

GOVERNMENT OF THE DISTRICT OF COLUMBIA
D.C. Department of Human Resources

District Personnel Manual Issuance System

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E-DPM Instruction No. 8-70, 9-37, 10-18, 36-11, & 38-25

SUBJECT: Immigration Reform and Control Act: *Form I-9, Employment Eligibility Verification*

Date: January 21, 2010

NOTE: This instruction supersedes DPM Instruction No. 8-67, 9-34, 10-14, 36-10, & 38-23, *same subject*, dated April 7, 2009, to provide the revised *Form I-9* (revised August 7, 2009 by the U.S. Department of Homeland Security).

1. Purpose

The purpose of this instruction is to provide the revised *Form I-9, Employment Eligibility Verification (Form I-9)* (see Attachment); and the procedures that must be followed in order to comply with the provisions of the Immigration Reform and Control Act of 1986 (IRCA), as amended.

2. Form I-9, Employment Eligibility Verification

- a. The U.S. Citizenship and Immigration Services (USCIS) issued a reminder that effective **April 3, 2009** all U.S. employers are required to use the revised *Form I-9, Employment Eligibility Verification*, (Rev. 08/07/09).
- b. The USCIS has revised the list of documents acceptable for the Employment Eligibility Verification (*Form I-9*) process to bring it into compliance with the governing statutes that require all documents presented during the Form I-9 process to be **UNEXPIRED**.
- c. Employers may no longer use previous versions of the *Form I-9*.
- d. As stated above, the most significant change to the *Form I-9* is that the revised list specifies that expired documents are no longer acceptable forms of identification or employment authorization.
- e. The following documents are acceptable under the *revised List A:
 - (1) U.S. Passport or U.S. Passport Card;

Note: E-DPM instructions that are strictly procedural in nature have direct applicability only to agencies and employees under the personnel authority of the Mayor. Other personnel authorities or independent agencies may adopt any or all of these procedures or guidance materials for agencies and employees under their respective jurisdictions.

Inquiries: Policy and Planning Administration, DCHR (202) 442-9700

Distribution: Heads of Department and Agencies, HR Advisors, and DPM Subscribers

Retain Until Superseded

- (2) Permanent Resident Card or Alien Registration Receipt Card (*Form I-551*);
- (3) Foreign passport that contains a temporary *I-551* stamp or temporary I-551 stamp printed notation on a machine-readable immigrant visa;
- (4) Employment Authorization Document that contains a photograph (*Form I-766*);
- (5) In the case of a nonimmigrant alien authorized to work for a specific employer incident to status, a foreign passport with Form I-94 or Form I-94A bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, as long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form; and
- (6) Passport from the Federal States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) 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.

[*Please note that some of the documents in Lists B and C have also been revised.]

3. Applicability

- a. All new hires of the District government, U.S. citizens and non-citizens, are required to complete a *Form I-9*.
- b. The following individuals are not required to complete a *Form I-9*:
 - (1) Individuals hired before November 7, 1986 who have been continuously employed by the District government since that date;
 - (2) Persons who provide contract services to an agency through an independent contractor; and
 - (3) Persons who are independent contractors.

4. Responsibilities

- a. New hires
 - (1) All new hires are required to complete section 1 of *Form I-9* when they report for processing, and **present original documents to establish their identity and employment eligibility.**
 - (2) Individuals under age 18 who are unable to produce an identity document (List A or B of the form) may be exempt from producing the document if:
 - (a) A parent or legal guardian completes section 1 and writes in the space for the minor's signature the words, "*minor under age 18;*"

- (b) The parent or legal guardian completes the "*Preparer/Translator Certification*" section of the form; and
- (c) The individual is still required to produce a List C document showing his or her employment eligibility. After the form is reviewed and the document submitted, the words, "*minor under age 18*" are to be written in Section 2, Employer Review and Verification, under List B of the form.

b. D.C. Department of Human Resources (DCHR)

It is the responsibility of the DCHR to verify the identity and employment eligibility of all new hires. In order to fulfill the requirements of the IRCA, the following steps should be followed:

(1) For new hires:

- (a) Notify all appointees/selectees of the requirement to provide a document or documents which establish their identity and eligibility to work when they report for processing, before the date employment begins. A list of acceptable documents is attached.
- (b) Have each new hire complete section 1 of the *Form I-9* during the entrance-on-duty process, but not later than 3 business days after the effective date of employment. A DCHR representative must examine the *Form I-9* to ensure that it is legible, properly completed, and bears a signature. If a new hire needs help in completing the form, the DCHR staff person providing assistance is required to fill in the section of the form for "*Preparer/Translator Certification.*"
- (c) Examine the original documents provided by employees to establish their identity and employment eligibility and complete section 2 of the form. Some documents establish both identity and employment eligibility (List A). Other documents establish identity only (List B) or employment eligibility (List C).
- (d) Review the documents to ensure that they reasonably appear to be genuine and relate to the new hire. If the documents do not appear to be genuine they should not be accepted. Work authorization documents that carry restrictions or limitations should be noted and those conditions observed. Check the box(es) on the *Form I-9* that correspond(s) to the document(s), and fill in the document number and expiration date.
- (e) If an employee is unable to provide the required document(s) within 3 days of the effective date of employment, a receipt showing that he or she has applied for the document(s) must be presented by the employee prior to the end of the 3-day period. The document title, the word "*Receipt,*" and any document number should be recorded in Section 2 of the *Form I-9* in the "*Document #*" space.

The employee must present the actual document(s) within 90 days of the effective date of employment, at which time the *Form I-9* is to be updated by crossing out the previous entry, inserting the document number from the actual document presented, and initialing and dating the change.

- (f) The DCHR representative reviewing the documents must complete the certification portion of the *Form I-9*.

(2) Re-Verification of Employment Authorization for Current Employees:

- (a) The DCHR must re-verify the employment eligibility of current employees with temporary work authorization, on or before the expiration date recorded in Section 1 of the form. The employee must present a document that shows either an extension of the initial employment authorization or a new work authorization:

1. Complete section 3 of the *Form I-9* for the re-verification; or
2. If section 3 of the *Form I-9* has already been used for a previous re-verification or update, use a new *Form I-9*.

- (b) When an employee is rehired, a new *Form I-9* must be completed or complete section 3 of the original *Form I-9*, only if:

1. The rehire is within 3 years of the initial date of hire; and
2. The employee is still eligible to work on the same basis as when the original *Form I-9* was completed.

5. Retention/Inspection of Records

RETENTION

- Employers may, but are not required to copy (or scan) the documents presented.
- Any copies made may only be used for the verification process, and must be retained with the *Form I-9*
- Copies are maintained in a separate *Form I-9* folder for 3 years after the date of hire; or 1 year after the date employment ends, whichever is later

INSPECTION

- Upon request from an authorized official of the Department of Homeland Security (DHS), the Department of Labor (DOL), or the Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC), the DCHR must make the *Form I-9* available for inspection.

6. Anti-Discrimination Provisions

- a. The IRCA prohibits discrimination in employment against any individual (other than an alien not authorized to work in the U.S.) because of that individual's national origin or citizenship status.

[Discrimination charges can be avoided by applying the verification procedures of the Act to all newly hired employees and by hiring without respect to the national origin or citizenship status of those authorized to work in the United States. Consequently, identity and employment eligibility documents should be requested from all new hires.]

- b. Discrimination charges may be filed either by persons who believe they were discriminated against in employment on the basis of national origin or citizenship status (or by a person on their behalf), or by INS officials who have reason to believe that discrimination has occurred. Employers found to have engaged in discriminatory practices may be ordered to hire or reinstate individuals directly injured by the discrimination, with back pay, or pay substantial fines.

7. Penalties for Prohibited Practices

The DHS may impose penalties if an investigation reveals that an employer knowingly hired or knowingly continued to employ an unauthorized alien, or failed to comply with the employment eligibility verification requirements for employees hired after November 6, 1986. If the DHS makes a determination that the law has been violated with respect to employees hired after November 6, 1986, civil and/or criminal penalties may be imposed.

8. Forms

The *Form I-9* may be photocopied or reprinted. Additional copies may also be ordered directly from the National Customer Service Center at 1-800-3785-5283 or by visiting the USCIS website at www.uscis.gov.

9. Effective Date

This instruction is effective immediately.


Brender L. Gregory
Director

Attachment:

- *Employment Eligibility Verification, Form I-9 (Rev. 08/07/09)*

Instructions

Read all instructions carefully before completing this form.

Anti-Discrimination Notice. It is illegal to discriminate against any individual (other than an alien not authorized to work in the United States) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate against work-authorized individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents presented have a future expiration date may also constitute illegal discrimination. For more information, call the Office of Special Counsel for Immigration Related Unfair Employment Practices at 1-800-255-8155.

What Is the Purpose of This Form?

The purpose of this form is to document that each new employee (both citizen and noncitizen) hired after November 6, 1986, is authorized to work in the United States.

When Should Form I-9 Be Used?

All employees (citizens and noncitizens) hired after November 6, 1986, and working in the United States must complete Form I-9.

Filling Out Form I-9

Section 1, Employee

This part of the form must be completed no later than the time of hire, which is the actual beginning of employment. Providing the Social Security Number is voluntary, except for employees hired by employers participating in the USCIS Electronic Employment Eligibility Verification Program (E-Verify). **The employer is responsible for ensuring that Section 1 is timely and properly completed.**

Noncitizen nationals of the United States are persons born in American Samoa, certain former citizens of the former Trust Territory of the Pacific Islands, and certain children of noncitizen nationals born abroad.

Employers should note the work authorization expiration date (if any) shown in Section 1. For employees who indicate an employment authorization expiration date in Section 1, employers are required to reverify employment authorization for employment on or before the date shown. Note that some employees may leave the expiration date blank if they are aliens whose work authorization does not expire (e.g., asylees, refugees, certain citizens of the Federated States of Micronesia or the Republic of the Marshall Islands). For such employees, reverification does not apply unless they choose to present

in Section 2 evidence of employment authorization that contains an expiration date (e.g., Employment Authorization Document (Form I-766)).

Preparer/Translator Certification

The Preparer/Translator Certification must be completed if Section 1 is prepared by a person other than the employee. A preparer/translator may be used only when the employee is unable to complete Section 1 on his or her own. However, the employee must still sign Section 1 personally.

Section 2, Employer

For the purpose of completing this form, the term "employer" means all employers including those recruiters and referrers for a fee who are agricultural associations, agricultural employers, or farm labor contractors. Employers must complete Section 2 by examining evidence of identity and employment authorization within three business days of the date employment begins. However, if an employer hires an individual for less than three business days, Section 2 must be completed at the time employment begins. Employers cannot specify which document(s) listed on the last page of Form I-9 employees present to establish identity and employment authorization. Employees may present any List A document **OR** a combination of a List B and a List C document.

If an employee is unable to present a required document (or documents), the employee must present an acceptable receipt in lieu of a document listed on the last page of this form. Receipts showing that a person has applied for an initial grant of employment authorization, or for renewal of employment authorization, are not acceptable. Employees must present receipts within three business days of the date employment begins and must present valid replacement documents within 90 days or other specified time.

Employers must record in Section 2:

1. Document title;
2. Issuing authority;
3. Document number;
4. Expiration date, if any; and
5. The date employment begins.

Employers must sign and date the certification in Section 2. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. If photocopies are made, they must be made for all new hires. Photocopies may only be used for the verification process and must be retained with Form I-9. **Employers are still responsible for completing and retaining Form I-9.**

For more detailed information, you may refer to the *USCIS Handbook for Employers (Form M-274)*. You may obtain the handbook using the contact information found under the header "USCIS Forms and Information."

Section 3, Updating and Reverification

Employers must complete Section 3 when updating and/or reverifying Form I-9. Employers must reverify employment authorization of their employees on or before the work authorization expiration date recorded in Section 1 (if any). Employers CANNOT specify which document(s) they will accept from an employee.

- A. If an employee's name has changed at the time this form is being updated/reverified, complete Block A.
- B. If an employee is rehired within three years of the date this form was originally completed and the employee is still authorized to be employed on the same basis as previously indicated on this form (updating), complete Block B and the signature block.
- C. If an employee is rehired within three years of the date this form was originally completed and the employee's work authorization has expired or if a current employee's work authorization is about to expire (reverification), complete Block B; and:
 1. Examine any document that reflects the employee is authorized to work in the United States (see List A or C);
 2. Record the document title, document number, and expiration date (if any) in Block C; and
 3. Complete the signature block.

Note that for reverification purposes, employers have the option of completing a new Form I-9 instead of completing Section 3.

What Is the Filing Fee?

There is no associated filing fee for completing Form I-9. This form is not filed with USCIS or any government agency. Form I-9 must be retained by the employer and made available for inspection by U.S. Government officials as specified in the Privacy Act Notice below.

USCIS Forms and Information

To order USCIS forms, you can download them from our website at www.uscis.gov/forms or call our toll-free number at 1-800-870-3676. You can obtain information about Form I-9 from our website at www.uscis.gov or by calling 1-888-464-4218.

Information about E-Verify, a free and voluntary program that allows participating employers to electronically verify the employment eligibility of their newly hired employees, can be obtained from our website at www.uscis.gov/e-verify or by calling 1-888-464-4218.

General information on immigration laws, regulations, and procedures can be obtained by telephoning our National Customer Service Center at 1-800-375-5283 or visiting our Internet website at www.uscis.gov.

Photocopying and Retaining Form I-9

A blank Form I-9 may be reproduced, provided both sides are copied. The Instructions must be available to all employees completing this form. Employers must retain completed Form I-9s for three years after the date of hire or one year after the date employment ends, whichever is later.

Form I-9 may be signed and retained electronically, as authorized in Department of Homeland Security regulations at 8 CFR 274a.2.

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.

Paperwork Reduction Act

An agency may not conduct or sponsor an information collection and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The public reporting burden for this collection of information is estimated at 12 minutes per response, including the time for reviewing instructions and completing and submitting the form. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to: U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529-2210. OMB No. 1615-0047. **Do not mail your completed Form I-9 to this address.**

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

**Form I-9, Employment
Eligibility Verification**

Read instructions carefully before completing this form. The instructions must be available during completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work-authorized individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification *(To be completed and signed by employee at the time employment begins.)*

Print Name: Last	First	Middle Initial	Maiden Name
Address (Street Name and Number)		Apt. #	Date of Birth (month/day/year)
City	State	Zip Code	Social Security #

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.

I attest, under penalty of perjury, that I am (check one of the following):

- A citizen of the United States
- A noncitizen national of the United States (see instructions)
- A lawful permanent resident (Alien #) _____
- An alien authorized to work (Alien # or Admission #) _____ until (expiration date, if applicable - month/day/year)

Employee's Signature	Date (month/day/year)
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Preparer and/or Translator Certification *(To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.*

Preparer's/Translator's Signature	Print Name
Address (Street Name and Number, City, State, Zip Code)	
Date (month/day/year)	

Section 2. Employer Review and Verification *(To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number, and expiration date, if any, of the document(s).)*

List A	OR	List B	AND	List C
Document title: _____		_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____

CERTIFICATION: I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) _____ and that to the best of my knowledge the employee is authorized to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)		Date (month/day/year)

Section 3. Updating and Reverification *(To be completed and signed by employer.)*

A. New Name (if applicable)	B. Date of Rehire (month/day/year) (if applicable)
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C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment authorization

Document Title: _____	Document #: _____	Expiration Date (if any): _____
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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 document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative	Date (month/day/year)
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LISTS OF ACCEPTABLE DOCUMENTS

All documents must be unexpired

LIST A

**Documents that Establish Both
Identity and Employment
Authorization**

LIST B

**Documents that Establish
Identity**

LIST C

**Documents that Establish
Employment Authorization**

OR

AND

1. U.S. Passport or U.S. Passport Card	1. Driver's license or ID card issued by a State or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address	1. Social Security Account Number card other than one that specifies on the face that the issuance of the card does not authorize employment in the United States
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		
3. Foreign passport that contains a temporary I-551 stamp or temporary I-551 printed notation on a machine-readable immigrant visa	2. ID card issued by federal, state or local government agencies or entities, provided it contains a photograph or information such as name, date of birth, gender, height, eye color, and address	2. Certification of Birth Abroad issued by the Department of State (Form FS-545)
4. Employment Authorization Document that contains a photograph (Form I-766)	3. School ID card with a photograph	3. Certification of Report of Birth issued by the Department of State (Form DS-1350)
5. In the case of a nonimmigrant alien authorized to work for a specific employer incident to status, a foreign passport with Form I-94 or Form I-94A bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, as long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form	4. Voter's registration card	4. Original or certified copy of birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal
	5. U.S. Military card or draft record	
	6. Military dependent's ID card	5. Native American tribal document
	7. U.S. Coast Guard Merchant Mariner Card	
	8. Native American tribal document	
9. Driver's license issued by a Canadian government authority	6. U.S. Citizen ID Card (Form I-197)	
6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) 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	For persons under age 18 who are unable to present a document listed above:	7. Identification Card for Use of Resident Citizen in the United States (Form I-179)
	10. School record or report card	8. Employment authorization document issued by the Department of Homeland Security
	11. Clinic, doctor, or hospital record	
	12. Day-care or nursery school record	

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)