

Issues & Answers

Immigration Alert

Update: Changes in Work Authorization Documentation

By Nancy-Jo Merritt

The Redesigned Employment Authorization Document

U.S. Citizenship and Immigration Services (USCIS) expects to issue a new version of the Employment Authorization Document (EAD) in June, 2004. The new card has numerous security features to prevent counterfeiting and fraud, including a magnetic strip, a two-dimensional barcode, and additional features that can be used to determine the card's authenticity.

The new EAD eliminates references to the former Immigration and Naturalization Services. It will now clearly be a Department of Homeland Security (DHS) and USCIS document. Be sure that your personnel responsible for I-9 completion are aware that all cards issued after July 1, 2004 will be the new version of the card.

Work Authorization without an Employment Authorization Document

Individuals admitted to the United States as refugees now have work authorization as a component of their status, and while many obtain EADs, refugees do not need an EAD in order to accept U.S. employment.

On December 7, 2003, President Bush signed legislation approving amended Compacts of Free Association (CFA) with two of our lesser-known cousins, the Federated States of Micronesia (FSM) and the Republic of the Marshall Islands (RMI). The amended CFA revises the immigration provisions of the previous Compact to require that RMI and FSM citizens show passports at entry to the United States. The generous nonimmigrant admission without visa and employment eligibility provisions are preserved. While the current regulations have required citizens of the RMI and FSM to obtain an EAD as evidence of their eligibility to work in the U.S., the new agreement provides that a person admitted to the U.S. from the FSM or RMI under the CFA "*shall be considered to have the permission of the Government of the United States to accept employment in the United States. An unexpired...passport with unexpired documentation issued by the Government of the United States evidencing admission under the compact or the compact as amended shall be considered to be documentation establishing identity and employment authorization under section 274A(b)(1)(B) of the Immigration and Nationality Act, as amended, 8 U.S.C. 1324a(b)(1)(B).*"

In other words, under the new versions of the Compacts, RMI and FSM passports with U.S. admission documentation under the Compacts are now “List A” documents that newly hired employees may show as evidence of identity and employment eligibility when completing the Form I-9. These individuals will check the third box in Part 1 of the I-9, and their employment authorization will be unrestricted and limited only by the expiration date of their I-94s.

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