

Tuesday, November 20, 2007

Immigration Update: Out With the Old, In With the New: USCIS Announces Release of New Form I-9

By Nancy-Jo Merritt and Matthew J. Martinez

On November 7, 2007, the United States Citizenship and Immigration Services (USCIS) announced the issuance of a revised version of Form I-9 Employment Eligibility Verification. Employers are required to use Form I-9 to verify the identity and work eligibility of all new employees hired to work in the U.S. after November 6, 1986 (including U.S. citizens), and to retain the completed I-9 forms for three years after the employee's date of hire or one year after the date that employment is terminated, whichever is later.

The Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA) reduced the number of documents which may be used to satisfy the work authorization and identity requirements of the I-9. This provision, however, did not take effect until regulations were published, so for 11 years the proposed changes have been on indefinite hold.

USCIS has indicated that employers should use the new Form I-9 starting immediately, although the USCIS will afford a period of time to transition to the new form. The Department of Homeland Security (DHS) will not apply fines and penalties for use of a prior edition of the Form I-9 until 30 days after notice is published in the Federal Register.

The most significant change to the Form I-9 is a reduction in the acceptable List A documents identified on the form. Five documents are no longer listed as documents acceptable for establishing both identity and employment eligibility under List A: (1) the Certificate of United States Citizenship (Form N-560 or N-561); (2) the Certificate of Naturalization (Form N-550 or N-570); (3) the Form I-151, a long out-of-date version of the Alien Registration Receipt Card ("green card"); (4) the Unexpired Reentry Permit (Form I-327); and (5) the Unexpired Refugee Travel Document (Form I-571). One document was added to List A: an unexpired Employment Authorization Document (I-766).

According to the new I-9 rules, the following documents are acceptable:

LIST A

1. U.S. Passport (unexpired or expired)
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)
3. An unexpired foreign passport with a temporary I-551 stamp
4. An unexpired Employment Authorization Document that contains a photograph (Form I-766, I-688, I-688A, I-688B)
5. An unexpired foreign passport with an unexpired Arrival-Departure Record, Form I-94, bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, if that status authorizes the alien to work for the employer

quick links

- [Immigration Practice](#)
- [Labor and Employment Practice](#)
- [Unsubscribe](#)
- [Acrobat Reader](#)

Phoenix
3003 N. Central Ave.
Suite 2600
Phoenix, AZ 85012
(602) 916-5000

Tucson
One S. Church Ave.
Suite 1000
Tucson, AZ 85701
(520) 879-6800

Nogales
420 W. Mariposa Rd.
Suite 200
Nogales, AZ 85621
(520) 281-3480

Las Vegas
300 S. Fourth St.
Suite 1400
Las Vegas, NV 89101
(702) 692-8000

Denver
1700 Lincoln
Suite 2900
Denver, CO 80203
(303) 291-3200

LIST B

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
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
3. School ID card with a photograph
4. Voter's registration card
5. U.S. Military card or draft record
6. Military dependent's ID card
7. U.S. Coast Guard Merchant Mariner Card
8. Native American tribal document
9. Driver's license issued by a Canadian government authority
10. School record or report card
11. Clinic, doctor or hospital record

LIST C

1. U.S. Social Security card issued by the Social Security Administration (other than a card stating it is not valid for employment)
2. Certification of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350)
3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal
4. Native American tribal document
5. U.S. Citizen ID Card (Form I-197)
6. ID Card for use of Resident Citizen in the United States (Form I-179)
7. Unexpired employment authorization document issued by DHS (other than those listed under List A)

The new Form I-9 is available at:

<http://www.uscis.gov/files/form/I-9.pdf>.

The USCIS official press release is available at:

<http://www.uscis.gov/files/pressrelease/FormI9Update110707.pdf>

The USCIS fact sheet is available at:

<http://www.uscis.gov/files/pressrelease/FormI9FS110707.pdf>

Nancy-Jo Merritt focuses her practice in immigration law and has nearly three decades of experience representing domestic and international companies with issues concerning foreign national employees and business immigration matters. She provides strategic counseling to clients and assists employers in developing compliance programs. She earned her B.A., (1964) M.A., (1974) and her J.D., (1978) from Arizona State University.

Matthew J. Martinez focuses his practice in the area of immigration and nationality law, with an emphasis on corporate transfers, professionals, entrepreneurs, investors, entertainers and athletes. Mr. Martinez has extensive experience representing employers and athletes in the equine industry, and in obtaining visas for temporary and seasonal workers. He earned his B.S., (1995) and his J.D., (1999) from Brigham Young University.



Nancy-Jo Merritt
Director
602.916.5411
nmerritt@fclaw.com



Matthew J. Martinez
Associate
602.916.5446
mmartinez@fclaw.com