

U.S. employers must begin using the revised U.S. Citizenship and Immigration Services (USCIS) Employment Eligibility Verification Form known as the I-9 (Form I-9) on April 3, 2009. Meanwhile, certain federal contractors and subcontractors also must prepare to comply with impending requirements to use USCIS E-Verify when hiring employees scheduled to take effect May 21, 2009.

New Form I-9

The use of the new Form I-9 is required under an interim rule published by USCIS in December 2008. The interim rule also changes the types of acceptable identity and employment authorization documents employers can accept from new hires and prohibits employees from using expired identification documents to verify their work eligibility beginning April 3, 2009. Employers will be required to use the new Form I-9 and to secure documentation of proof of eligibility to work in accordance with the revised rules contained in the interim rule for all new hires and to reverify any employee with expiring employment authorization in accordance with the interim regulations beginning on April 3, 2009.

Employers can download a copy of the new Form I-9 at http://www.uscis.gov/files/form/I-9_IFR_02-02-09.pdf. The interim regulations are available for review at <http://edocket.access.gpo.gov/2008/E8-29874.htm>. USCIS presently is updating the Handbook for Employers, Instructions for Completing the Form I-9 (M-274).

The new Form I-9 replaces the June 5, 2007 edition of the Form I-9 (the Old Form I-9), which will not be valid for use after April 2, 2009. A big change in the new Form I-9 requirements is that expired documents cannot be accepted as proof of eligibility to work. All documents presented during the Form I-9 completion process now must be unexpired. The new Form I-9 and interim regulations also add and remove certain documents to the list of documents that employers can accept of proof of identity and/or eligibility to work in the U.S.

The interim rule originally was scheduled to take effect on Feb. 2, 2009. The Obama Administration extended the effective date to April 3, 2009 under a directive issued in January.

Federal Contractor E-Verify Rule Scheduled To Take Effect May 21, 2009

Certain federal contractors and subcontractors also need to prepare to comply with a new federal rule that will require them to use E-Verify to verify the employment eligibility of new hires scheduled to take effect May 21, 2009. The rule will only affect federal contractors who are awarded a new contract after May 21st that includes the Federal Acquisition Regulation (FAR) E-Verify clause. Federal contractors may **NOT** use E-Verify to verify current employees until the rule becomes effective and they are awarded a contract that includes the FAR E-Verify Clause.

The new rule implements Executive Order 12989, as amended by President George W. Bush on June 6, 2008, directing federal agencies to require that federal contractors agree

to electronically verify the employment eligibility of their employees. The amended Executive Order reinforces the policy, first announced in 1996, that the federal government does business with companies that have a legal workforce. This new rule requires federal contractors to agree, through language inserted into their federal contracts, to use E-Verify to confirm the employment eligibility of all persons hired during a contract term, and to confirm the employment eligibility of federal contractors' current employees who perform contract services for the federal government within the United States.

Interested persons can review the final regulation and read frequently asked questions about this new rule on the internet at the following cites:

- ✓ Final Regulation at <http://edocket.access.gpo.gov/2008/E8-26904.htm>
- ✓ Frequently Asked Questions at <http://www.uscis.gov/portal/site/uscis/menuitem.5af9bb95919f35e66f614176543f6d1a/?vgnextoid=cb2a535e0869d110VgnVCM1000004718190aRCRD&vgnnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD>

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