

 HR SOLUTIONS FOR YOUR COMPANY

New Form I-9 Released

The U.S. Citizenship & Immigration Services (USCIS) released the revised version of [Form I-9, the Employment Eligibility Verification Form](#). Employers may begin using the new form immediately, but must discontinue the use of the old form (dated March 8, 2013) by January 22, 2017. Section 274A(b) of the Immigration and Nationality Act requires employers to verify, within three days of an employee starting work, the employees' identity and that they are legally eligible to work in the United States.

The new form, which used Adobe Acrobat Reader, has features intended to make it easier to complete on a computer, thus reducing the chance of employer errors that could result in fines. The USCIS is calling the new Form I-9 a "smart form," but has noted that it is not an electronic I-9 as defined in the regulations. For example, the form does not accept electronic signatures, nor is it connected to E-Verify. Employers must print the completed document, obtain handwritten signatures, store and update a hard copy of the form, and retype information into E-verify as required. Forms may not be saved electronically (unless the form was created and/or being stored electronically using a compliant electronic Form I-9 system).

Changes to the electronic form include:

- Validations on certain fields to ensure information is entered correctly;
- Drop-down lists and calendars;
- Embedded instructions for each field;
- Additional spaces to enter multiple preparers and translators;
- Buttons that will allow users to access instructions electronically, print the form and clear the form to start over;
- A QR code (see sidebar) that generates on the form when it is printed.



What is a QR Code?

QR (Quick Response) codes are a two-dimensional barcode that uses four standardized encoding modes including both numeric and alphabetic. These codes can be read by imaging devices, such as cameras. The introduction of the QR code is to capture all information contained in the Form I-9 to streamline review by government auditors.

Other changes to the form are:

- A new check box requiring the employee to indicate if they used a translator or preparer;
- The requirement that workers provide only other last names used in Section 1, rather than all other names used. This is to avoid possible discrimination issues and to protect the privacy of transgender and other individuals who have changed their first names;
- The removal of the requirement that immigrants authorized to work provide both their Form I-94 number and foreign passport information in Section 1.
- A new "Citizenship/Immigration Status" field at the top of Section 2.
- A dedicated area to enter additional information that employers are currently required to notate in the margins of the form, such as Temporary Protected Status and Optional Practical Training extensions.

Employers may still choose to print and complete the new form by hand, but that may be temporary. Employers should also be aware that the Office of Special Counsel (OSC) has proposed changes to the definition of "discrimination" to mean "the act of intentionally treating an individual differently, regardless of the explanation for the discrimination, and regardless of whether it is because of animus or hostility" and replacing the term "document abuse" to "unfair documentary practices." Both changes have the potential to increase an employer's liability in their management of this mandated employment process.

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