

## New Version of [Form I-9](#) Released – Mandatory Use by May 7, 2013

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US Citizenship and Immigration Services (USCIS) published, on March 8, 2013, the long-awaited new version of the [Form I-9, Employment Eligibility Verification](#). The form, expanded from one to two pages, is available for immediate use by employers. Employers have a 60-day grace period and may continue to use previously accepted versions, (Rev.02/02/09)N and (Rev. 08/07/09)Y, until May 7, 2013. After May 7, all employers must use the revised Form I-9 for each new employee hired in the US. This includes employers utilizing electronic I-9 verification systems. Employers should not complete a new I-9 for current employees for whom there is already a properly completed Form I-9 on file.

The new version includes the following details:

- The layout of the form has been expanded to two pages.
- The instructions have been expanded and include more detailed information on the identity and work authorization documents an employer may accept.
- New data fields have been added, including an employee's foreign passport information, telephone number and email address. Similar to the social security number field in section 1, providing the telephone number and/or email address is voluntary. However, employers using E-Verify must require the employee to complete the social security number field in section 1.

Pursuant to the Immigration Reform and Control Act of 1986, employers are required to verify, using Form I-9, the employment authorization and identity of each individual hired for employment in the US. The employee must complete section 1 (now encompassing page 1 of the form) on or before the date of hire (interpreted as the first day of employment). The employer, via an authorized representative or agent, must physically examine the employee's original identity and work authorization documents and complete section 2 (now on page 2) within three business days of the employee's date of hire. Employers are required to maintain Form I-9 for each active employee, hired after November 6, 1986, and through the required retention period after termination of employment. The retention period is either three years after the date of hire or one year after the date of termination, whichever is later.

Employers should now take steps to incorporate the revised Form I-9 into their employment compliance procedures. If an employer is utilizing an electronic I-9 system, now is a good time to review the system's compliance with the Department of Homeland Security (DHS) rule for Electronic Signature and Storage of Form I-9, which modified the regulations to include specific requirements for electronic storage and audit trails for creating, completing, updating, modifying, altering or correcting an electronic Form I-9.

At this time it is unclear how DHS' Immigration and Customs Enforcement (ICE) will enforce paperwork compliance and errors or omissions related to the completion of the revised form. Moreover, USCIS has just issued an updated M-274 I-9 handbook for employers that provides guidance regarding the revisions to the form. Squire Sanders will continue to monitor DHS' enforcement practices as well as the implementation of the new Form I-9.

For further information regarding Form I-9 compliance or other immigration matters, please contact your principal Squire Sanders lawyer or one of the individuals listed in this publication.

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