

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL

Advisory Memorandum #13-01

1000 Recruitment and 1800 Appointments

April 23, 2013

T0: Department and Agency Personnel, Human Resources, and Affirmative
Action Offices
FROM: Marc Hannibal, Special Counsel
SUBJECT: Employment Eligibility Verification Form (Form I-9)

This Advisory Memorandum updates State Personnel Management Manual Advisory Memorandum #09-01, dated March 13, 2009, located in Sections 1000 and 1800. Note on both copies of the 2005 Memo that this Advisory Memorandum should be consulted.

United States Citizenship and Immigration Services (USCIS) has published a revised Employment Eligibility Verification Form I-9 for use. Improvements to Form I-9 include new fields, reformatting to reduce errors, and clearer instructions for both employees and employers.

Effective March 8, 2013:

- Employers should begin using the newly revised Form I-9 (Rev. 03/08/13)N for all new hires and reverifications.
- Employers may continue to use previously accepted revisions (Rev.02/02/09)N and (Rev. 08/07/09) Y until May 7, 2013.
- After May 7, 2013, employers must only use Form I-9 (Rev. 03/08/13)N.

The revision date of the Form I-9 is printed on the lower left corner of the form. Employers should not complete a new Form I-9 for current employees if a properly completed Form I-9 is already on file.

Copies of the March 8, 2013 version of Form I-9 (including instructions) are available for download on the USCIS Web site at www.uscis.gov. **Print copies of the March 8, 2013 version of Form I-9 for your agency's use and destroy all blank copies of previous versions of Form I-9 in your possession.** Check the USCIS Web site regularly for the latest official information and guidance.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL**

Advisory Memorandum #09-01

1000 Recruitment and 1800 Appointments

March 13, 2009

T0: Department and Agency Personnel, Human Resources, and Affirmative
Action Offices

FROM: Judith I. Ratner, Counsel

SUBJECT: Employment Eligibility Verification Form (Form I-9)

This Advisory Memorandum updates State Personnel Management Manual Advisory Memorandum #07-03, dated November 30, 2007, located in Sections 1000 and 1800. Note on both copies of the 2005 Memo that this Advisory Memorandum should be consulted.

The United States Department of Citizenship and Immigration Services (USCIS) has delayed implementation of the newest version of Employment Eligibility Verification Form I-9 until April 3, 2009. Appointing authorities are prohibited from using the new Form I-9 before that date. Use of the new Form I-9 before this date could expose an employer to monetary penalties. Employers should continue to use the current version of Form I-9 (with revision date of 6/5/07) until April 3, 2009.

Starting April 3, 2009, employers are required to use the new Form I-9 and can no longer use any prior versions of Form I-9. In addition to other changes listed on the new Form I-9, employers will no longer be able to accept expired documents to verify employment authorization on the form.

Current employees will not have to re-verify their employment eligibility using new Form I-9 unless their current work authorization expires on or after April 3, 2009.

The USCIS may continue to update and revise the new Form I-9 implementation timetable and guidelines. Copies of the current and post-April 3, 2009 versions of Form I-9 (including instructions) are available for download on the USCIS Web site at www.uscis.gov. Check this Web site regularly for the latest official information and guidance.

**NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL
POLICY BULLETIN #88-03**

0400 Affirmative Action / 1000 Recruitment

August 11, 1988

REIMBURSEMENT OF MOVING EXPENSES FOR PROTECTED CLASS EMPLOYEES

In view of the State's commitment to Affirmative Action, and based on recent legal opinion, and in consultation with the NYS Division of the Budget, the Department of Civil Service is announcing a new policy relating to the reimbursement of moving expenses for candidates receiving an original appointment (pursuant to State Finance Law §204).

POLICY

In addition to the traditional requests in which we determine that there is a shortage of qualified candidates, we will now also consider agency requests for reimbursement for the moving expenses of protected class candidates where either of the following criteria are met:

- There is a shortage of qualified protected class candidates, or
- There is a shortage of protected class incumbents in the title and agency

PROCEDURES

Requests must be submitted in writing to your Staffing Services Section. Requests must contain information about the number of protected class candidates available, and/or the number of protected class incumbents in the title as compared to the number of white males in the title.

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

STATE PERSONNEL MANAGEMENT MANUAL

Advisory Memorandum #07-03

1000 Recruitment and 1800 Appointments

November 30, 2007

TO: Department and Agency Personnel, Human Resources, and Affirmative Action Offices

FROM: Judith I. Ratner, Counsel

SUBJECT: Employment Eligibility Verification Form (Form I-9)

This Advisory Memorandum updates State Personnel Management Manual Advisory Memorandum #05-03, dated August 5, 2005, located in Sections 1000 and 1800. Note on both copies of the 2005 Memo that this Advisory Memorandum should be consulted.

The U.S. Citizenship and Immigration Services (USCIS) of the Department of Homeland Security has updated the Employment Eligibility Verification Form I-9.

Please note the following changes to the Form I-9 process:

- Five documents have been removed from List A of the List of Acceptable Documents:
 - Certificate of U.S. Citizenship (Form N-560 or N-561);
 - Certificate of Naturalization (Form N-550 or N-570)
 - Alien Registration Receipt Card (I-151);
 - Unexpired Reentry Permit (Form I-327);
 - Unexpired Refugee Travel Document (Form I-571).
- One document was added to List A of the List of Acceptable Documents:
 - Unexpired Employment Authorization Document (I-766).
- All Employment Authorization Documents with photographs have been consolidated as one item on List A:
 - I-688, I-688A, I-688B, I-766.
- Instructions regarding Section 1 of the Form I-9 now indicate that the employee is not obliged to provide his or her Social Security number in Section 1 of the Form I-9, unless he or she is employed by an employer who participates in E-Verify.
- Employers may now sign and retain Forms I-9 electronically. See instructions on page 2 of the Form I-9.

A copy of the current Form I-9 (with a revision date of 06/05/07) is attached. The Form and information regarding the Form I-9 employment eligibility verification process is available for download from the USCIS website at the following URL:
<http://www.uscis.gov/i-9> .

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

STATE PERSONNEL MANAGEMENT MANUAL

Advisory Memorandum #07-03

1000 Recruitment and 1800 Appointments

November 30, 2007

As of November 2007, appointing authorities should use the new Form I-9 for all future hires and for all current employees who are required to re-verify or complete a new Form I-9. Current employees who are not required by law to re-verify or complete a new Form I-9 do not need to complete this Form.

Personnel offices should destroy all previous blank versions of Form I-9 in their possession.

attachment

Instructions

Please read all instructions carefully before completing this form.

Anti-Discrimination Notice. It is illegal to discriminate against any individual (other than an alien not authorized to work in the U.S.) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents presented have a future expiration date may also constitute illegal discrimination.

What Is the Purpose of This Form?

The purpose of this form is to document that each new employee (both citizen and non-citizen) hired after November 6, 1986 is authorized to work in the United States.

When Should the Form I-9 Be Used?

All employees, citizens and noncitizens, hired after November 6, 1986 and working in the United States must complete a Form I-9.

Filling Out the Form I-9

Section 1, Employee: This part of the form must be completed at the time of hire, which is the actual beginning of employment. Providing the Social Security number is voluntary, except for employees hired by employers participating in the USCIS Electronic Employment Eligibility Verification Program (E-Verify). **The employer is responsible for ensuring that Section 1 is timely and properly completed.**

Preparer/Translator Certification. The Preparer/Translator Certification must be completed if **Section 1** is prepared by a person other than the employee. A preparer/translator may be used only when the employee is unable to complete **Section 1** on his/her own. However, the employee must still sign **Section 1** personally.

Section 2, Employer: For the purpose of completing this form, the term "employer" means all employers including those recruiters and referrers for a fee who are agricultural associations, agricultural employers or farm labor contractors. Employers must complete **Section 2** by examining evidence of identity and employment eligibility within three (3) business days of the date employment begins. If employees are authorized to work, but are unable to present the required

document(s) within three business days, they must present a receipt for the application of the document(s) within three business days and the actual document(s) within ninety (90) days. However, if employers hire individuals for a duration of less than three business days, **Section 2** must be completed at the time employment begins. **Employers must record:**

- 1. Document title;
- 2. Issuing authority;
- 3. Document number;
- 4. Expiration date, if any; and
- 5. The date employment begins.

Employers must sign and date the certification. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. These photocopies may only be used for the verification process and must be retained with the Form I-9. **However, employers are still responsible for completing and retaining the Form I-9.**

Section 3, Updating and Reverification: Employers must complete **Section 3** when updating and/or reverifying the Form I-9. Employers must reverify employment eligibility of their employees on or before the expiration date recorded in **Section 1**. Employers **CANNOT** specify which document(s) they will accept from an employee.

- A. If an employee's name has changed at the time this form is being updated/reverified, complete Block A.
- B. If an employee is rehired within three (3) years of the date this form was originally completed and the employee is still eligible to be employed on the same basis as previously indicated on this form (updating), complete Block B and the signature block.
- C. If an employee is rehired within three (3) years of the date this form was originally completed and the employee's work authorization has expired or if a current employee's work authorization is about to expire (reverification), complete Block B and:
 - 1. Examine any document that reflects that the employee is authorized to work in the U.S. (see List A or C);
 - 2. Record the document title, document number and expiration date (if any) in Block C, and
 - 3. Complete the signature block.

What Is the Filing Fee?

There is no associated filing fee for completing the Form I-9. This form is not filed with USCIS or any government agency. The Form I-9 must be retained by the employer and made available for inspection by U.S. Government officials as specified in the Privacy Act Notice below.

USCIS Forms and Information

To order USCIS forms, call our toll-free number at **1-800-870-3676**. Individuals can also get USCIS forms and information on immigration laws, regulations and procedures by telephoning our National Customer Service Center at **1-800-375-5283** or visiting our internet website at www.uscis.gov.

Photocopying and Retaining the Form I-9

A blank Form I-9 may be reproduced, provided both sides are copied. The Instructions must be available to all employees completing this form. Employers must retain completed Forms I-9 for three (3) years after the date of hire or one (1) year after the date employment ends, whichever is later.

The Form I-9 may be signed and retained electronically, as authorized in Department of Homeland Security regulations at 8 CFR § 274a.2.

Privacy Act Notice

The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 USC 1324a).

This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee, of aliens who are not authorized to work in the United States.

This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by officials of U.S. Immigration and Customs Enforcement, Department of Labor and Office of Special Counsel for Immigration Related Unfair Employment Practices.

Submission of the information required in this form is voluntary. However, an individual may not begin employment unless this form is completed, since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.

Paperwork Reduction Act

We try to create forms and instructions that are accurate, can be easily understood and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: **1)** learning about this form, and completing the form, 9 minutes; **2)** assembling and filing (recordkeeping) the form, 3 minutes, for an average of 12 minutes per response. If you have comments regarding the accuracy of this burden estimate, or suggestions for making this form simpler, you can write to: U.S. Citizenship and Immigration Services, Regulatory Management Division, 111 Massachusetts Avenue, N.W., 3rd Floor, Suite 3008, Washington, DC 20529. OMB No. 1615-0047.

Department of Homeland Security
U.S. Citizenship and Immigration Services

**Form I-9, Employment
Eligibility Verification**

Please read instructions carefully before completing this form. The instructions must be available during completion of this form.

ANTI-DISCRIMINATION NOTICE: It is illegal to discriminate against work eligible individuals. Employers CANNOT specify which document(s) they will accept from an employee. The refusal to hire an individual because the documents have a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Verification. To be completed and signed by employee at the time employment begins.

Print Name: Last	First	Middle Initial	Maiden Name
Address (Street Name and Number)		Apt. #	Date of Birth (month/day/year)
City	State	Zip Code	Social Security #

I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.	I attest, under penalty of perjury, that I am (check one of the following): <input type="checkbox"/> A citizen or national of the United States <input type="checkbox"/> A lawful permanent resident (Alien #) A _____ <input type="checkbox"/> An alien authorized to work until _____ (Alien # or Admission #) _____
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Employee's Signature	Date (month/day/year)
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Preparer and/or Translator Certification. (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury, that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature	Print Name
Address (Street Name and Number, City, State, Zip Code)	Date (month/day/year)

Section 2. Employer Review and Verification. To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C, as listed on the reverse of this form, and record the title, number and expiration date, if any, of the document(s).

List A	OR	List B	AND	List C
Document title: _____		_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any): _____		_____		_____

CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) _____ and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment.)

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name and Address (Street Name and Number, City, State, Zip Code)		Date (month/day/year)

Section 3. Updating and Reverification. To be completed and signed by employer.

A. New Name (if applicable)	B. Date of Rehire (month/day/year) (if applicable)
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C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility.

Document Title: _____	Document #: _____	Expiration Date (if any): _____
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I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative	Date (month/day/year)
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LISTS OF ACCEPTABLE DOCUMENTS

LIST A Documents that Establish Both Identity and Employment Eligibility	OR	LIST B Documents that Establish Identity	AND	LIST C Documents that Establish Employment Eligibility
1. U.S. Passport (unexpired or expired)		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		1. U.S. Social Security card issued by the Social Security Administration <i>(other than a card stating it is not valid for employment)</i>
2. Permanent Resident Card or Alien Registration Receipt Card (Form I-551)		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		2. Certification of Birth Abroad issued by the Department of State <i>(Form FS-545 or Form DS-1350)</i>
3. An unexpired foreign passport with a temporary I-551 stamp		3. School ID card with a photograph		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. An unexpired Employment Authorization Document that contains a photograph (Form I-766, I-688, I-688A, I-688B)		4. Voter's registration card		4. Native American tribal document
		5. U.S. Military card or draft record		5. U.S. Citizen ID Card <i>(Form I-197)</i>
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		6. Military dependent's ID card		6. ID Card for use of Resident Citizen in the United States <i>(Form I-179)</i>
		7. U.S. Coast Guard Merchant Mariner Card		
		8. Native American tribal document		7. Unexpired employment authorization document issued by DHS <i>(other than those listed under List A)</i>
	9. Driver's license issued by a Canadian government authority			
		For persons under age 18 who are unable to present a document listed above:		
		10. School record or report card		
		11. Clinic, doctor or hospital record		
		12. Day-care or nursery school record		

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

STATE PERSONNEL MANAGEMENT MANUAL

Advisory Memorandum #05-03

1000 Recruitment and 1800 Appointments

August 5, 2005

TO: Department and Agency Personnel, Human Resources, and Affirmative Action Offices

FROM: Brian S. Reichenbach, Counsel

SUBJECT: Employment Eligibility Verification Form (Form I-9)

This updates State Personnel Management Manual Advisory Memorandum #97-07, dated December 12, 1997, located in Sections 1000 and 1800. Note on both copies of the 1997 Memo that this Advisory Memorandum should be consulted.

The U.S. Citizenship and Immigration Services (USCIS) and U.S. Immigration and Customs Enforcement (ICE) have updated the Employment Eligibility Verification Form (Form I-9) to eliminate outdated references to the former Immigration and Naturalization Service and its parent agency, the Department of Justice (DOJ). The USCIS is now an entity within the Department of Homeland Security (DHS). Aside from replacing outdated references to the DOJ and the former INS, the current edition of Form I-9 is the same as the 11/21/91 edition. A substantively revised Form I-9 may be issued in the future.

The edition of the rebranded Form I-9 reads "(Rev. 05/31/05)Y." Employers may meet their employment verification requirements by completing a Form I-9 that has an edition date of either "(Rev. 05/31/05)Y," or "(Rev. 05/31/05)N," or "(Rev. 11/21/91)N" in the lower right corner of the Form. Properly completed older versions of Form I-9 remain valid.

The USCIS has removed several documents from the list of acceptable identity and work authorization documents ("List A" documents) listed on the 11/91 version of Form I-9 and I-9 Instructions, and in the INS "Handbook for Employers" (Document M-274, 1991 edition). Documents that can no longer be used in the I-9 verification process include:

- Certificate of US Citizenship (INS form N-560 or N-561; see List A #2);
- Certificate of Naturalization (INS Form N-550 or N-570; see List A #3);
- Alien Registration Receipt Card (INS Form I-151; see List A #5);
- Unexpired Reentry Permit (INS Form I-327; see List A #8);
- Unexpired Refugee Travel Document (INS Form I-571; see List A #9).

The acceptability of an unexpired foreign passport with Form I-94 indicating unexpired work authorization (List A #4) was made more limiting. Such combination of documents is now only acceptable where an individual is employment authorized incident to status for a specific employer (such as a particular NYS agency).

Another document has been added to List A to establish identity and employment eligibility:

- Employment Authorization Document (INS Form I-766).

Also, the rule explaining when receipts may be used in place of original documents in the I-9 verification process (the "Receipt Rule") has been modified.

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

STATE PERSONNEL MANAGEMENT MANUAL

Advisory Memorandum #05-03

1000 Recruitment and 1800 Appointments

August 5, 2005

Employers are strongly encouraged to consult the Web site of the Office of Business Liaison (OBL) of U.S. Citizenship and Immigration Services at <http://www.bcis.gov> for the latest information regarding Form I-9. The site has downloadable forms and guides for employers, answers to frequently asked questions (FAQs), and provides a toll-free telephone number for personal assistance. This Web site should be checked periodically, as rules regarding the I-9 verification process and Form I-9 are subject to change by the federal government.

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

STATE PERSONNEL MANAGEMENT MANUAL

Advisory Memorandum #97-07

1000 Recruitment and 1800 Appointments

December 12, 1997

TO: Department and Agency Personnel, Human Resource and Affirmative Action Offices

FROM: Daniel E. Wall, Counsel

SUBJECT: The Immigration and Nationality Act: Verifying Employment Eligibility

URGENT

THIS UPDATES STATE PERSONNEL MANAGEMENT MANUAL ADVISORY MEMORANDUM #94-06, DATED OCTOBER 11, 1994, "THE IMMIGRATION AND NATIONALITY ACT" LOCATED IN SECTIONS 1000 AND 1800.

NOTE ON BOTH COPIES OF THE 1994 MEMO THAT THIS MEMO MUST ALSO BE SEEN.

As stated in Advisory Memorandum #94-06, the Act requires employers to verify the employment eligibility and identity of all new hires. The Illegal Immigration Reform and Immigrant Responsibility Act of 1996, (IIRIRA) Pub L. 104-208, amended the Immigration and Nationality Act by removing certain documents from the list of documents acceptable for verifying employment eligibility on the Employment Eligibility Verification Form (Form I-9). The Immigration and Naturalization Service (INS) issued an interim rule, effective September 30, 1997, (62 FR 51001), to implement the amendments. However, the INS exercised its discretion under the Act to designate specific documents as acceptable, to retain some of the documents eliminated by IIRIRA.

The rule deletes the following documents from "List A" on the I-9. *These documents are no longer acceptable for verifying identity and employment eligibility:*

- Certificate of US Citizenship, INS Form N-560 or N-561, and
- Certificate of Naturalization, INS Form N-550 or N-570.

Under the amended regulations, the following documents, so long as they appear to relate to the individual presenting the document, are acceptable as "List A" documents to evidence both identity and employment eligibility:

- A United States passport (unexpired or expired);
- An Alien Registration Receipt Card or Permanent Resident Card (Form I-551);
- A foreign passport with a Temporary I-551 stamp;
- An Employment Authorization Document (EAD) issued by INS which contains a photograph (Form I-766, Form I-688, or Form I-688B; and, in the case of a nonimmigrant alien authorized to work for a specific employer incident to status, a foreign passport with an Arrival-Departure Record (Form I-94) bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, so long as the period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the Form I-94.

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

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Advisory Memorandum #97-07

1000 Recruitment and 1800 Appointments

December 12, 1997

There is no change with respect to either the "List B" documents or "List C" documents at this time. INS has advised that additional changes will be made within the next six months as a result of a document reduction initiative. Recognizing that these changes are being implemented with little advance public notice, and without any changes to the existing Form I-9 and the Handbook for Employers (Form M-274). INS has advised that it will not seek monetary civil penalties against employers who accept the documents removed by the interim rule.

Since a revised Form I-9 has not yet been promulgated, employers are to use the current version of the Form I-9 (edition 11/21/91), to complete the verification process. You may, however, want to note on the Form which of the documents are no longer acceptable.

Receipts

The rule also amends the regulations governing the use of receipts, (8 C.F.R. section 274a.2(b)(1)(vi)). The current regulations permit individuals to present a receipt showing that they have applied for a replacement document if the individual is unable to provide a required document(s) at the time of hire. The individual must then present the required document(s) within 90 days of the hire.

The interim rule provides that an employer must accept a receipt that appears to be genuine on its face and relate to the individual presenting it in lieu of the required document, unless the employer has actual or constructive knowledge that the individual is not authorized to work. A receipt is not acceptable for initial work authorization or an extension of expiring work authorization. Receipts are acceptable in the following three instances:

1. When an individual presents a receipt for the application for a replacement document because the original document was lost, stolen or damaged. The individual must present the replacement document within 90 days of hire or the date employment authorization expires.
2. When an individual presents the arrival portion of the Form I-94 that INS has marked with a temporary I-551 stamp and has affixed with the alien's picture, which is designated as a receipt for Form I-551 for 180 days;
3. When an individual presents the departure portion of Form I-94 containing a refugee admission stamp. The refugee is permitted to present either an unrestricted Social Security card or a Form I-766 EAD at the end of the 90-day receipt period. If the refugee presents a Social Security card, the refugee will also need to present a "List B" document. If the refugee present a Form I-766 EAD, he or she need not present another document.

Receipts are not acceptable where the individual is hired for less than three business days.

If you have any questions concerning this information, you may contact the Office of Counsel of the Department of Civil Service at (518) 457-6207.

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE
STATE PERSONNEL MANAGEMENT MANUAL

1000

Advisory Memorandum #94-09

~~0400~~ Recruitment - 1800 Appointments

October 19, 1994

TO: Department and Agency Personnel and Affirmative Action Officers
FROM: Marie D. Dukes, Deputy Commissioner and General Counsel
SUBJECT: The Immigration and Nationality Act

The Immigration and Naturalization Service has extended the period for replacement of I-151 green cards issued prior to 1979 from September 20, 1994 until March 20, 1995.

Employers must continue to accept the old I-151 as proof of identity and work authorization until March 20, 1995 for new hires and current employees.

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

STATE PERSONNEL MANAGEMENT MANUAL

Advisory Memorandum #94-06

1000

1400 Recruitment - 1800 Appointments

October 11, 1994

TO: Department and Agency Personnel and Affirmative Action Officers
FROM: Marie D. Dukes, ^{mdd} Deputy Commissioner and General Counsel
SUBJECT: The Immigration and Nationality Act

THIS ADVISORY MEMORANDUM REVISES THE INFORMATION IN ADVISORY MEMORANDUM #88-02, ISSUED JUNE 27, 1988, AND ADVISORY MEMORANDUM #87-02, ISSUED MAY 29, 1987 WHICH SHOULD BOTH BE REMOVED FROM BOTH PLACES IN YOUR SPMM AND DESTROYED.

The Immigration and Nationality Act of 1986 makes it unlawful for an employer, including public employers, to employ aliens who are not authorized to work in the United States. The Act establishes an employment verification system and makes it unlawful for an employer to hire any person without verifying their identity and employment eligibility.

In accordance with the Act, each department or agency must complete, for any person hired after November 6, 1986, the effective date of the Act, Immigration and Naturalization (INS) Form I-9, verifying that the person is a United States citizen or an alien lawfully authorized to work in the United States. ~~A copy of the current Form I-9 is attached.~~ You may photocopy or reprint Form I-9 for use by your department or agency. Remember to print or copy both sides of the Form.

The regulations of the INS implementing the employment verification requirements of the Act, provide that an employer will not be deemed to have "hired" an individual if the individual is continuing in his or her employment and as a reasonable expectation of employment at all times. An individual is considered *continuing in their employment*:

1. during any period of approved paid or unpaid leave;
2. if he or she is promoted;
3. if he or she is reinstated after disciplinary suspension for wrongful termination, found unjustified by any court, arbitrator, or administrative body, or otherwise resolved through reinstatement or settlement;
4. if he or she is reassigned to another location, or
5. if he or she is engaged in seasonal employment and has a reasonable expectation of being recalled.

All **new** employees must complete section 1 of the Form "Employee Information and Verification," and produce documentation establishing their identity and eligibility to be employed in the United States. Employers, within three days of hire, must complete section 2 of the Form "Employer Review and Verification," after physically examining the documentation presented by the employee and ensuring that it appears to be

SEE ALSO ADV. MEMO 97-07 IN THIS SECTION

NEW YORK STATE DEPARTMENT OF CIVIL SERVICE

STATE PERSONNEL MANAGEMENT MANUAL

Advisory Memorandum #94-06

1000

0100 Recruitment - 1800 Appointments

October 11, 1994

the documentation presented by the employee and ensuring that it appears to be genuine. If an individual, with the exception of an alien who indicates that he/she is not authorized to work, is unable to produce the required documentation within three days of hire, he/she must present a receipt indicating that he/she has applied for a replacement document within three days of hire and actually produce the documents within 90 days of hire. If a person is to be employed for less than three days, the Form must be completed at the time of hire.

Prospective employees should be notified regarding the documentation requirements of the Act as early as possible in the appointment process. If you determine that an eligible on a list is unable to produce the required documentation, or a receipt indicating he/she has applied for a replacement document, please so advise the Employment Records Section of this department in writing. Such eligible's name will be restricted from certification on all lists on which his or her name appears, until such time as he or she requests restoration and provides the necessary documentation. This department will advise eligibles of the eligible lists from which they are restricted from appointment. Additionally, in cases where an eligible's name is on a decentralized list, we will notify the agency responsible for managing the list of our action.

Employees who are unable or unwilling to present acceptable documentation, or a receipt indicating he/she has applied for a replacement document, are to be terminated. The Payroll and Personnel Transaction Form reporting such termination should indicate that the employee was unable to provide documentation establishing identity and/or employment eligibility as required by the Immigration law.

DOCUMENTATION

On the pages following is a current listing of the acceptable documentation for establishing identity and employment eligibility. An individual may present one document from Group A to establish both identity and employment eligibility, or may present one document from Group B to establish identity and one document from Group C to establish employment eligibility. The identification number and expiration date (if any) must be noted in the appropriate space on the Form. **Only original documents are acceptable.** Copies of the documents presented should be made and attached to the Form, and should be retained in the employee's personnel file.

GROUP A

The following documents may be used to establish both identity and employment eligibility:

1. United States passport (expired or unexpired);

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2. Certificate of United States Citizenship (INS Form N-560 or N-561);
3. Certificate of Naturalization (INS Form N-55- or N-570),
4. Unexpired foreign passport with:
 - (a) unexpired I-551 stamp, or
 - (b) I-94 Form attached with unexpired employment authorization stamp, as long as proposed employment is not in conflict with any limitations or restrictions noted on Form;
5. Alien Registration Receipt Card, INS Form 151, or Resident Alien INS Form I-551, with photograph, (Effective September 20, 1994, Form I-551 will be the exclusive registration card for lawful permanent resident aliens. Form I-551 will replace the old Alien Registration Card, Form I-151, due to high incidence of fraud connected with Form I-551.)
6. Unexpired Temporary Resident Card (INS Form 688);
7. Unexpired Employment Authorization Card (INS Form I-688A);
8. Unexpired re-entry permit (INS Form I-327);
9. Unexpired Refugee Travel document (INS Form I-571);
10. Unexpired employment authorization document issued by INS containing a photograph (INS Form I-688B);

GROUP B

The following documents may be used to establish identity only for individuals 16 years of age or older:

1. Driver's license or identification card issued by a state or by the District of Columbia, Puerto Rico, Guam, the US Virgin Islands, American Samoa or the Swains Islands, containing identifying information such as: name, date of birth, sex, height, eye color and address;
2. Military dependent's identification card;
3. School identification card with a photograph;
4. Voter's registration card;
5. US Military card or draft record;
6. Identification card issued by federal, state or local government entity containing photograph or identifying information, as noted in (1) above;
7. Canadian driver's license;

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8. Native American Tribal Document,
9. United States Coast Guard Merchant Mariner Card.

The following documents may be used by individuals under 18 years of age or to establish identity only, if they are unable to produce one of the "identity" documents noted above:

1. School record or report card;
2. Clinic doctor or hospital record;
3. Daycare or nursery school record.

*Minors under 18 years of age who are unable to produce any of the identity documents, are exempt if their parent or legal guardian completes the "Employee Information and Verification" section on the I-9 and writes "minor under age 18" in the signature section, completes the "Preparer/Translator section and the employer indicates "minor under age 18" in "Document Identification #".

Persons with disabilities who are being placed into employment by a nonprofit organization, association or as part of a rehabilitation program may also produce one of these three optional forms of identification to establish identity or may follow the procedures for establishing identity for minors under 18 years of age, substituting the term "special placement" for "minor under age 18", where appropriate. Further, in addition to a parent or legal guardian, a representative from the nonprofit organization or association or rehabilitation program placing the individual, may fill out and sign the I-9 form.

GROUP C

The following documents may be used to establish employment eligibility only;

1. A Social Security number card, provided it does not state "*not valid for employment purposes,*"
2. A Certificate of Birth Abroad issued by the Department of State (Form FS-545 or Form DS-1350);
3. An 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. United States Citizen Identification Card (INS Form I-197),
6. Resident Citizen Identification card (INS Form I-179),

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7. An unexpired employment authorization document issued by INS.

The Form must be retained by an employer for three years from the date of hire or one year after the termination of the individual's employment, whichever is longer. The Form, with documentation, should be kept with the individual's personnel records and should not be used for any other purpose. I-9 Forms may be placed on microfilm or microfiche within articulated standards. Departments and agencies should also keep a record of any employees whose employment authorization documents contain an expiration date. The Act requires employers to reverify employment eligibility by noting the identification number and expiration date of the document showing continuing employment eligibility or a new work authorization prior to the expiration of the original authorization if they are to continue to employ such person.

The Act also prohibits employment discrimination, making it an unfair immigration-related employment practice to discriminate against a person in hiring, recruitment or discharge, because of such person's national origin or citizenship status.

Further, it is an unfair immigration-related employment practice for an employer to refuse to accept the documents presented by an employee or to ask for additional or different documents, if the documents presented by the employee appear to be genuine and to relate to the employee.

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TO: State Departments and Agencies

**FROM: Kathy A. Bennett, Deputy Commissioner
and General Counsel**

SUBJECT: The Immigration and Nationality Act

Public Law 99-603, the Immigration Reform and Control Act of 1986, imposes a number of requirements on employers, including public employers. The Act, which requires employers to verify employees' citizenship and legal ability to work, became effective on November 6, 1986. Although each State department and agency is responsible for establishing procedures in compliance with this measure, in an effort to assist you during the initial stages of implementation, this Department will disseminate information obtained from Washington.

Enforcement of this Act is scheduled to begin on June 1, 1987 with only citations to be issued to those not complying until May 31, 1988, after which time fines will be levied.

The task of establishing proper procedures and controls for the verification process has been made somewhat difficult as the federal government has not yet promulgated final regulations to implement this Act. Further, the "compliance form" (INS I-9, see draft copy attached) to be used in this verification process is still under review.

Under the Act, all persons hired or appointed after November 6, 1986 will have to produce evidence of citizenship or naturalization or, if a resident alien, evidence of their right to be employed in this country.

To comply, the employee must submit to the personnel office of the appointing authority documents which establish employment authorization and identity.

Both employment authorization and identity may be established through production of one of the following documents:

- (1) United States passport; or
 - (2) certificate of United States citizenship; or
 - (3) certificate of naturalization; or
 - (4) unexpired foreign passport, if the passport has an
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appropriate, unexpired endorsement of the Attorney General authorizing the individual's employment in the United States; or

- (5) resident alien card or other alien registration card, if the card --
 - (a) contains a photograph of the individual or such other personal identifying information relating to the individual as the Attorney General finds, by regulation, sufficient for purposes of this subsection,
and
 - (b) is evidence of authorization of employment in the United States.

A prospective employee who does not possess one of the above documents must produce a document to establish employment authorization and a second document to establish identity.

In order to establish employment authorization the employee may use either:

- (1) social security account number card (unless such card specifies on the face that its issuance does not authorize employment in the United States);
or
- (2) certificate of birth in the United States or establishing United States nationality at birth, which certificate the Attorney General finds, by regulation, to be acceptable for purposes of this section.

Identity may be established by producing a driver's license or similar document issued for the purpose of identification by a State, if it contains a photograph of the individual or personal identifying information relating to the individual.

We understand that the federal regulations to be issued may prescribe additional acceptable documentation.

In order to comply with federal law, each State agency must obtain the information necessary to complete the "Employer's Certification" (Part F on the draft of form I-9) from each person newly appointed to the agency as well as each person appointed on or after November 6, 1986 to date. Photocopies of the documents presented by such persons should be made and must be retained with the form as part of your personnel records for three years

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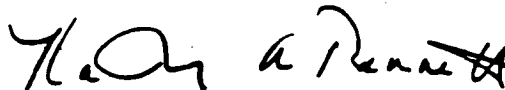
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after the initial date of employment or for one year following the date the employee separates from service, whichever is later. [The Act specifically authorizes copying such documentation for this purpose regardless of other provisions of law prohibiting the reproduction of such materials.]

In addition, there will be a need to bring personnel files up-to-date for all individuals hired since November 6, 1986. We recommend that, while we are waiting for the INS to produce the final version of the form I-9, you begin to identify all such persons and inform them that they will soon be required to produce the necessary documents to prove their eligibility to work lawfully in this country. If you have any data needs in connection with identifying such persons, please contact Susan Whitfield of this Department at 518-457-7355.

We will provide additional information as soon as the final regulations are promulgated. In the interim, please direct questions to the INS at (518) 472-2434.



Deputy Commissioner and
General Counsel

Attachment

Notice: This form will be made available for inspection by United States Immigration and Naturalization Service or Department of Labor Officers. Authority for collecting the information on this form is in Title 8, United States Code, Section 1324A. It will be used to verify the individual's eligibility for employment in the United States. Failure to provide all of the requested information may result in a determination that the applicant is ineligible for employment in the United States.

A. Identifying information

(All individuals must complete this section.)

1. Name (Last Name in CAPS)

 First Name Middle Name
2. Home Address (Street Name and Number)

 (City, State and ZIP Code)
3. Country of Citizenship
4. Country of Birth
5. Date of Birth (Month/Day/Year)

B. Information about alien employment authorization

(Individuals who are aliens must complete this section.)

1. Date you entered the U.S. (Month/Day/Year) 2. Place of entry
3. Type of employment authorization 4. Expiration date
5. Immigration status
6. Alien Registration or Admission Number

C. Individual's Certification

(All individuals must complete this section.)

I certify, under penalty of perjury that I am a citizen or national of the United States, or an alien lawfully admitted for permanent residence or an alien who is authorized by the Attorney General for employment in the United States and that the documents that I have presented for evidence of identity and employment authorization are genuine and relate to me. I am aware that various Federal Criminal Statutes provide for imprisonment and/or a fine for any false statement or presentation of a false document in connection with this certification. For purposes of employment only, the employer may verify the validity of the document(s) presented with the Immigration and Naturalization Service or the authority issuing the document.

1. Your Signature
2. Date Signed (Month/Day/Year)
3. Place Signed

D. Preparer's Certification (If other than individual named in Section A.)

I declare that I prepared this document at the request of the person named in Section A above and that all the information is true and correct to the best of my knowledge.

1. Name 2. Relationship
3. Address (Street Name and Number)

 (City, State and ZIP Code)
4. Signature 5. Date Signed (Month/Day/Year)

E. Employer's must complete this section.

(Copies of the documents examined may be made and attached to this form.)

Enter on this line the document of both identity and employment eligibility you examined (see list A).

Enter on this line the document of identity you examined (see list B).

Enter on this line the document of employment eligibility you examined (see list C).

Type of Document	Date Issued	Issued By	Identification Number	Expiration Date (if any)

F. Employer's Certification: I certify, under penalty of perjury, that I have examined the above described documents which were presented to me by the individual named in Section A, that the documents appear to be genuine, that they appear to relate to the individual named and that the individual is a United States citizen, a legal Permanent Resident, or a nonimmigrant alien with authorization to work.

- | | |
|--|------------------------------------|
| Name of verifying official (print or type) | Name of company or State agency |
| Title of verifying official | Address of company or State agency |
| Signature of verifying official | Date signed |