

USCIS REVISED FORM I-9

The U.S. Citizenship and Immigration Services (“USCIS”) published formal notice of a new streamlined and shortened Form I-9 effective August 1, 2023. While employers may continue to use the current version through October 31, 2023, fines will be levied if the new Form is not used (for both new hires and reverifications) on and after November 1, 2023. The new version, which is streamlined and shortened compared to the current Form I-9, became available on the USCIS website for downloading on August 1.

Among the improvements to the form is a checkbox employers enrolled in E-Verify can use to indicate they remotely examined identity and employment authorization documents under an alternative procedure authorized by the Department of Homeland Security (DHS).

The Federal Register document provides an alternative for certain employers to remotely examine Form I-9 documents, instead of the current requirement to examine documents in-person. To participate in the remote examination of Form I-9 documents under the DHS-authorized alternative procedure, employers must be enrolled in E-Verify, examine and retain copies of all documents, conduct a live video interaction with the employee, and create an E-Verify case if the employee is a new hire.

Employers who were participating in E-Verify and created a case for employees whose documents were examined during COVID-19 flexibilities (March 20, 2020 to July 31, 2023), may choose to use the new alternative procedure starting on August 1, 2023 to satisfy the physical document examination requirement by Aug. 30, 2023. Employers who were not enrolled in E-Verify during the COVID-19 flexibilities must complete an in-person physical examination by Aug. 30, 2023.

The revised Form I-9:

- Reduces Sections 1 and 2 to a one-page form;
- Is designed to be a fillable form on tablets and mobile devices;
- Moves the Section 1 Preparer/Translator Certification area to a separate, standalone supplement (Supplement A) that employers can provide to employees when necessary;
- Moves Section 3, Reverification and Rehire, to a standalone supplement (Supplement B) that employers can print if or when rehire occurs or reverification is required, or to record a name change; and
- Revises the Lists of Acceptable Documents page to include some acceptable receipts as well as guidance and links to information on automatic extensions of employment authorization documentation.

The foregoing Compliance Update is for informational purposes only, and does not constitute legal advice. As a reminder, the NBA general counsel is the attorney for the Nebraska Bankers Association, not its member banks. The general counsel is available to assist members with finding resources to help answer their questions. However, for specific legal advice about specific situations, members must consult and retain their own attorney.
