



# Questions and Answers

## National Stakeholder Teleconference on the Revised Form I-9 03-11-2013

**The following is a transcript of the questions received after the March 11, 2013, National Stakeholder Teleconference on the Form I-9, as well as USCIS' response to those questions. Questions from stakeholders are indicated in quotes and are shown exactly as they were received.**

**1. "For rehire or reverification, should we only reverify List A and C documents? Not List B documents?"**

Answer: Yes. Employers should never reverify List B documents. In the case of rehire or reverification, the employer is only checking to see if the employee is authorized to continue working in the United States.

**2. "Do we need to reverify Lawful Permanent Residents and/or United States Citizens?"**

Answer: No. Employers must never reverify U.S. citizens. In most cases, lawful permanent residents do not need to be reverified. However, if a lawful permanent resident presents his or her employer with temporary evidence of lawful permanent resident status for Section 2, then reverification may be necessary.

Temporary evidence of lawful permanent resident status includes:

- A foreign passport with a temporary Form I-551 stamp or I-551-printed notation on a machine-readable immigrant visa (MRIV) (acceptable as a List A document);
- An expired Permanent Resident Card with Form I-797, Notice of Action, indicating that the card is valid for an additional year (acceptable as a List C document); and
- A Form I-94 with a temporary Form I-551 stamp, which is a receipt for the Permanent Resident Card (Form I-551). At the end of the receipt validity period, which is the expiration date of the stamp, the employee must present his or her Permanent Resident Card (Form I-551).

**3. “Which date do we use on Form I-9 for seasonal employees? The start of the season or the first date of employment?”**

Answer: You must enter the first day of employment on Form I-9 for these seasonal employees.

**4. “We are having difficulties opening the English version of the form. Can you tell us how to resolve this issue?”**

Answer: Please ensure that all browsers that you are using to open the form are up to date.

**5. “We are a staffing agency. How do we complete the employer certification area of Form I-9? We usually complete Form I-9; have the potential employee verified by E-Verify, then wait for the actual date of employment.”**

Answer: Form I-9 may be completed after an offer and acceptance of employment with the staffing agency has occurred and an E-Verify case can be created once the Form I-9 is completed. Once the individual begins providing labor or services in exchange for pay or other remuneration, the staffing agency should correct the date on the Form I-9 to reflect this start date, then initial and date the correction. We also recommend that you attach a note to Form I-9 explaining the situation.

**6. “My question relates to Social Security Administration receipts. Some of these receipts contradict with page 9 of the form.”**

Answer: If a Social Security Administration receipt contains a statement that it is not valid for employment, then it cannot be used to fulfill the List C document requirement.

**7. “Are there any other acceptable documents especially under List C 8 of the Lists of Acceptable Documents? An individual provided a Certificate of Naturalization.”**

Answer: Yes. The Certificate of Naturalization is acceptable under List C #8. For additional information on acceptable documents, please visit [I-9 Central](http://I-9Central) at [www.uscis.gov/I-9Central](http://www.uscis.gov/I-9Central).

**8. “Are employers permitted to send employees just pages 7-9? Or do we have to send all the pages to the employee prior to employment to complete?”**

Answer: The employer must provide or otherwise make available to the employee the pages that contain the instructions and Lists of Acceptable Documents. This means that pages 1-7 and 9 must be provided to the employee.

**9. “For seasonal workers returning, can we use an old form?”**

Answer: Yes. If the seasonal worker is continuing in his or her employment and has a reasonable expectation of employment at all times, his or her return to work would not be considered a new hire, so a new Form I-9 is not required. If the worker is not considered to be continuing in his or her employment, then the old form may still be sufficient to meet the

verification requirements if the worker's return to work is a rehire within 3 years from the date the old Form I-9 was completed. The employer can complete Section 3 of the old form or use Section 3 of a new form and attach it to the previous form. If reverification is not necessary, provide the rehire date and complete the attestation portion of Section 3.

However, the employer should ensure that any necessary reverification has been completed timely. The employer should complete the rehire date, reverification and attestation fields if work authorization has since expired. If reverification is necessary and there is a new version of the Form I-9, Section 3 of the new version must be completed and attached to the previous form.

**10. "This is a question possibly for ICE for compliance purposes, if there is an audit can they see a scanned copy of the form or do they need to see original?"**

Answer: If an employer has an original Form I-9, present that form during an audit. If the employer has scanned Forms I-9 and destroyed the originals, present those scanned forms during an audit.

**11. "If we offer a job to an individual and time passes between the completion of Form I-9 and the first day of work, can the form be completed with a future date?"**

Answer: Yes. Form I-9 can be completed with a future start date. Form I-9 can be completed after there is an offer of employment and the employee has accepted, but before the first day of work for pay. The employer should make sure to correct the form to show the actual start date if that date is different than the start date initially provided on the form. The correction should be initialed and dated. We recommend that you attach a note to the form explaining the situation.

**12. "Is the new e-mail address and telephone number fields optional?"**

Answer: Yes. These fields are voluntary. The employee may enter "N/A" in these fields if they choose not to provide their e-mail address and telephone number.

**13. "Our company participates in E-Verify. Has there been a field to add the case verification number? If not, can one be added to Form I-9?"**

Answer: Thank you for the comment. At this time, there is no field on Form I-9 for the E-Verify case verification number. We will consider this recommendation in the future.

**14. "My previous questions were answered by other callers – however I did want to find out if .pdf storage is acceptable?"**

Answer: Yes, .pdf storage is acceptable.

**15. “For verification purposes, can we ask to see the Social Security Card?”**

Answer: No. Employers cannot ask to see specific documents. Employees must be allowed to choose which document(s) they want to present from the Lists of Acceptable Documents.

If the employer participates in E-Verify, the employee must provide the Social Security number in Section 1 of Form I-9. The employer does not need to see the card. If the employee chooses to present the Social Security card to demonstrate employment authorization in Section 2, then the employer must see the card.

**16. “If a person presents an Employment Authorization Document (EAD), when do we need to use the new form?”**

Answer: Use the new version of Form I-9 when the EAD expires to meet the reverification requirement. Complete only Section 3 of the new version of the form, and attach it to the originally completed form.

**17. “Now that the Form I-9 is longer than a single page, can double-sided copies be used to decrease the number of pages?”**

Answer: Yes, we encourage this as a best practice.

**18. “We are a staffing agency, if an employee receives a new assignment, for compliance purposes do they need to fill out a new I-9 each time?”**

Answer: If the staffing agency has not terminated the employment of the individual, then no new Form I-9 is required.

**19. “I think you may have answered this question previously, but do we need to see the Social Security card or just receive the number?”**

Answer: If the employer participates in E-Verify, the employee must provide the Social Security number in Section 1 of Form I-9. The employer does not need to see the card. The employee must be allowed to choose which document(s) they want to present from the Lists of Acceptable Documents. If the employee chooses to present the Social Security card to demonstrate employment authorization in Section 2, then the employer must see the card.

**20. “I have a question about electronic signatures, are these permissible?”**

Answer: Yes. You should review the standards provided at 8 CFR 274a.2(e)-(i) to determine if you meet the requirements. Per 8 CFR 274a.2(h), the electronic signature of the employee must contain a record verifying the identity of the person producing the signature.

**21. “Can the employee use the number value or write out the month in the Date of Birth field?”**

Answer: Both are acceptable as long as the information is provided.

**22. “My questions are also about abbreviations. I have employees abbreviating city names, i.e. Phila or Philly. Should they be written out?”**

Answer: It is preferable to write out city names in full to ensure that they are understandable in case of an audit.

**23. “I just attempted to open the new form, and was unable to. Can you tell us how to resolve this issue?”**

Answer: Please make sure all of your browsers are up-to-date in order to support the new form.

**24. “When can we use the Spanish version of the Form I-9?”**

Answer: The Spanish version of the form is only for use by employers in Puerto Rico. The English version is required in the United States, but the Spanish version may be used as a reference.

**25. “It is our practice that the Form I-9 is completed two weeks before employment begins. What date do we use in Section 2? The anticipated start date?”**

Answer: The anticipated start date should be provided in Section 2 of Form I-9. Correct this date if the actual start date is different. Be sure to initial and date the correction, and attach a note explaining the situation. It is best if the start date recorded on Form I-9 matches the start date on the employer’s payroll records.

**26. “I noticed that in Section 2 of the Form I-9 two additional boxes have been added under List A. What is the purpose?”**

Answer: Two additional document entry fields were added to List A to accommodate employees presenting a combination of documents. Unused fields may be left blank.

**27. “Can we accept faxed copies of Form I-9 or do we need the original?”**

Answer: Forms I-9 retained in paper format must contain original handwritten signatures. The employee must complete Section 1 and employers or their authorized representatives must physically examine the employee’s documents in the presence of the employee in order to properly complete and sign Section 2. Employers may then scan Forms I-9 for storage purposes. Please see pages 27 to 29 of the *Handbook for Employers* (M-274) for more information.

**28. “We have multiple locations and Form I-9 is not kept at the physical location of the employee’s place of work. What do we do?”**

Answer: If you store your Forms I-9 off-site, you must inform the inspecting officer to make arrangements for the inspection. Please see page 29 of the *Handbook for Employers* (M-274) for more information.

**29. “During the presentation, it was mentioned that we can request a customized webinar, please, provide that information again?”**

Answer: Please e-mail us at [e-verify@dhs.gov](mailto:e-verify@dhs.gov) to make a request for a custom webinar.

**30. “My question is about List A in Section 2 of Form I-9. If an EAD is used can the other two spaces be left blank?”**

Answer: Yes, you must leave the other two spaces blank. The additional spaces only need to be filled in if the employee presents a List A document that is comprised of a combination of documents, e.g., foreign passport in combination with Form I-94 indicating work authorized nonimmigrant status.

**31. “Is there an html version of the form?”**

Answer: At this point, the .pdf-fillable version located on [I-9 Central](http://www.uscis.gov/I-9Central) at www.uscis.gov/I-9Central is the only form available to employers.

**32. “With the changes that have occurred are there any changes to the auditing process?”**

Answer: Although the format of Form I-9 has changed, the regulations have not changed and therefore the auditing process has not changed.

**33. “We have used the information on the website for training purposes. Have these been updated?”**

Answer: Yes, [I-9 Central](http://www.uscis.gov/I-9Central) at www.uscis.gov/I-9Central has been updated to include all the new information we have discussed today. The *Handbook for Employers* (M-274) has also been revised.

**34. “If I am audited do I have to have the documents the employee provided attached to Form I-9?”**

Answer: The original documents the employee presents must be returned to the employee after the employer completes the required document review process. The employer can choose to make photocopies of the documents for Form I-9 purposes, and E-Verify employers are required to keep copies of certain documents. If the employer makes photocopies of documents, the employer must either retain the copies with Form I-9 or with the employee’s records.

**35. “How long do customized Webinars last?”**

Answer: These webinars usually take 45 minutes to present the information, then we open the floor for questions.

**36. “When does the new form take effect? Is there a grace period for employers to use the form?”**

Answer: The newly revised Form I-9 with a revision date of 03/08/13 N is effective immediately. Employers were allowed 60 days, until May 7, 2013, to continue to use the previously valid forms. This period of time was provided to give employers an opportunity to update their systems and business processes.

**37. “What last name should a married woman enter in Section 1? Her maiden name or married name?”**

Answer: She should enter her legal name in the Last Name field. If her legal name is her married name, then she should enter her married name in the Last Name field and her maiden name in the Other Names Used field.

**38. “The Form is 9 pages long and we have the instructions on display. Can we provide the employee only pages 7-8?”**

Answer: The employee must be allowed to view the instructions and the Lists of Acceptable Documents. If the instructions and Lists of Acceptable Documents are in a location where employees are able to view them when completing Form I-9, then it is acceptable to only give them page 7.

**39. “Is the voter registration card an acceptable document for List B? This has been very confusing and we have heard conflicting information.”**

Answer: A voter registration card is an acceptable document for List B. However, if the employer is enrolled in E-Verify, the employer may not accept a voter registration card that does not contain a photograph. The E-Verify employer must ask the employee to show another acceptable List B document with a photograph.

**40. “Is an expired ID with a receipt attached acceptable?”**

Answer: Your employee may present a receipt for the application for the replacement of any List A, List B or List C document. The expired ID is not acceptable for Form I-9.

**41. “We use notaries in various locations to complete the Form I-9 on our behalf since we have multiple locations nationwide. Is this acceptable? Do they have to use their seal?”**

Answer: Yes, this is acceptable. The employer remains responsible for any mistakes made by the notary. The notary is not required to use their seal since they are not notarizing the form. Instead, they are acting as an authorized representative of the employer.

**42. “Why do we not need to reverify TPS employees? Why do we have to reverify employees covered under AC 21?”**

Answer: For TPS beneficiaries, a Federal Register Notice may extend the validity of their EAD automatically. For AC 21 individuals, you must ensure that you mail, file and include payment with the petition. You will need to reverify those individuals with TPS when the auto-extension ends, or in the case of when USCIS makes a determination on the petition.

**43. “I have a question regarding birth certificates, many employees due to age have to request duplicate birth certificates, and can we use the receipt from the state issuing authority as an acceptable document?”**

Answer: This depends on the receipt provided by the state. If the receipt is for the application for a replacement birth certificate (certified copy) because the birth certificate was lost, stolen or destroyed, then the receipt is acceptable for 90 days, after which time the employee must present a new birth certificate.

**44. “Do we need to retain Form I-9 instructions?”**

Answer: No, you do not need to retain the instructions. However, you must make sure that the instructions, as well as the Lists of Acceptable Documents, are available to employees when completing Form I-9. Only pages 7 and 8 on which you or the employee entered information must be retained.

**45. “If an employee submits an EAD card for list A, do we have to collect other documents regarding the terms and conditions of their employment?”**

Answer: No, you only need the EAD card.

**46. “Can an employer pre-populate the employee info in Section 1?”**

Answer: No, the employee must complete and sign Section 1 of Form I-9.

**47. “What is the Barcode for?”**

Answer: At this time, it is a placeholder for future technology.

**48. “Are the e-mail address and telephone number fields voluntary? Is the Social Security number is voluntary as well?”**

Answer: Yes, the e-mail and telephone address fields are voluntary. The employee may write “N/A” in these fields if they choose not to provide e-mail and telephone address information. The Social Security number field is voluntary, unless the employer participates in E-Verify. The Social Security number is required to create a case in E-Verify.

**49. “This is a rehire question, we are an educational institution and are constantly re-hiring students sometimes in the same position or different ones after their Summer and/or Winter Breaks, in this instance do we need to complete multiple new Forms I-9? This could lead to the same student having 9 forms?”**

Answer: If an individual is rehired within three years of the date that the previous Form I-9 was completed, then the employer does not have to complete a new Form I-9. If choosing to rely on the previous Form I-9, the employer needs to inspect the previous Form I-9 to determine if the individual’s employment authorization has expired.

- If the individual’s employment authorization has not expired, record the rehire date in Section 3 of the previous Form I-9 and sign and date the attestation in Section 3.
- If the individual’s employment authorization has expired, then the employer must reverify employment authorization in Section 3 of the previous Form I-9, or of a new Form I-9 if the previous Form I-9 is no longer valid or Section 3 of the previous Form I-9 has already been completed.

See page 24 in the *Handbook for Employers* (M-274).

**50. “The instructions indicate that in some fields employees can write N/A. If they leave the fields blank, will this be considered a problem for the auditors?”**

Answer: It is stated in the instructions that in certain fields, employees may enter “N/A.” This is considered a best practice.

**51. “If an employee was hired in 2011 and completed a previously valid Form I-9, do we need to complete the newly revised Form I-9 If the employee is considered a rehire?”**

Answer: No, if the employee continues to be authorized to work in the United States, then reverification is not necessary. You may record the rehire date and complete the attestation in Section 3 of the previously completed Form I-9.

**52. “We provide a typed Form I-9 to employees, is that OK?”**

Answer: Yes, provided the employee completed Section 1 of the form and there are original signatures.

**53. “Is the retention date the same for paper and electronic Forms I-9?”**

Answer: Yes. Regardless of the format, the employer must retain Forms I-9 for three years after the date of hire or one year after the date of termination, which is later. The chart in the *Handbook for Employers* (M-274) will help with determining the date.

**54. “If the employee makes a mistake on Form I-9, do we correct it or should we complete a new Form I-9?”**

Answer: Only employees may correct mistakes made in the fields they completed in Section 1. To make corrections, the employee should draw a line through the mistake, then initial and date the change. Do not erase or black-out information, or use white-out. If the corrections are extensive, a new Form I-9 or sections of a new Form I-9 may be completed and attached to the previous Form I-9. Include a written explanation of the situation.

**55. “Can an employer pre-populate their information in Section 2?”**

Answer: Yes, the employer may prepopulate the employer’s business information, business name and address in the Certification block in Section 2.

**56. “If an employee writes down an A# or USCIS # in Section 1, do we have to see the documents to confirm these numbers?”**

Answer: No. All you need to see is that the employee has properly recorded the number in Section 1.

**57. “How should we make corrections to Form I-9?”**

Answer: Only employees may correct mistakes made in the fields they completed in Section 1. Employers may correct information in Section 2 and Section 3. To make corrections, the employee or employer should draw a line through the mistake, then initial and date the change. Do not erase or black-out information, or use white-out. If the corrections are extensive, a new Form I-9 or sections of a new Form I-9 may be completed and attached to the previous Form I-9. Include a written explanation of the situation.

**58. “What happens if an employee has a legal name change?”**

Answer: You may complete Section 3 of the previously completed form or a new Form I-9 and attached it to the old form with a written explanation of what happened. See page 23 of the *Handbook for Employers* (M-274) for more detailed information.

**59. “Have changes been made to the M-274?”**

Answer: Yes, an updated *Handbook for Employers* M-274 is available to the public.

**60. “We are owners of more than 51 restaurants and keep Forms I-9 at the corporate office. Is it permissible to keep Forms I-9s at another location?”**

Answer: The employer may determine where and how Forms I-9 will be stored based on its own business process. The original Forms I-9 may be kept at a corporate office or at locations where the individual works. Forms I-9 must be made available for inspection, if asked by government officials. See page 29 of the *Handbook for Employers* (M-274) for more detailed information.

**61. “We have a number of employees who work internationally and then return to work in the United States. What do we enter as their date of hire?”**

Answer: The date of hire is the first day they provide labor or services for pay in the United States.

**62. “When are employers required to use the new form?”**

Answer: Employers should begin using the new Form I-9 (Rev. 03/08/13)N immediately for all new hires. Employers were able to continue to use previously valid Forms I-9 (Rev. 08/07/09Y and 02/02/09N) until May 7, 2013.

**63. “Some permanent resident cards are conditional. Do we need to be reverify those permanent resident cards at a later date?”**

Answer: No. You do not reverify lawful permanent residents. Lawful permanent residents are permitted to work in the United States on a permanent basis.

**64. “We have seasonal employees that we rehire in the same position every 6 months. Do we need to complete the new form?”**

Answer: No, unless the employee’s work authorization must be reverified. If the seasonal worker is continuing in his or her employment and has a reasonable expectation of employment at all times, his or her return to work would not be considered a new hire, so a new Form I-9 is not required. If the worker is not considered to be continuing in his or her employment, then the old form may still be sufficient to meet the verification requirements if the worker’s return to work is a rehire within 3 years from the date the old Form I-9 was completed. The employer can complete Section 3 of the old form or use Section 3 of a new form and attach it to the previous form. The employer should complete the rehire date, reverification and attestation fields if work authorization has since expired. If reverification is not necessary, provide the rehire date and complete the attestation portion of Section 3. If reverification is necessary and there is a new version of Form I-9, complete Section 3 of the new version of Form I-9 and attach it to the previous form.