
New Form I-9 Finally Available

2005-06-20

The United States Customs and Immigration Service (USCIS) has finally made available the new Form I-9 (Employment Eligibility Verification). Employers must complete a Form I-9 within three business days of the hire of new employees. The employer must also retain the forms for three years post-hire or one year post-termination of employment, whichever is longer. Exclusive use of the new Form I-9 will be required beginning in January 2006. The new form is available on the [USCIS website](#) and may be used immediately.

With the exception of the addition of “a national of the United States” to the Section I employee attestation, the new Form I-9 is most notable for what it did not change. It did not remove from List A (Documents that Establish Both Identity and Employment Eligibility) the four items that, as late as March 16, 2005, the USCIS had directed employers **not** to accept: Certificate of US Citizenship; Certificate of Naturalization; Unexpired Reentry Permit; or Unexpired Refugee Travel Document. As a result, despite their continued inclusion in the new Form I-9 List A, until further notice, employers should not accept these items as proof of an employee’s eligibility to work. In addition, an unexpired foreign passport with Form I-94 indicating unexpired work authorization may only be used as a List A item where the employee is authorized for employment for a specific employer (e.g. H-1B). It is not known whether the USCIS’s failure to exclude these items from the new List of Acceptable Documents reflects an intention to allow employers to accept them in the future.

If you have any questions about this or any other immigration matter, please contact a member of our Immigration Group.

Authors



**Jonathan
Rosenfeld**

RETIRED PARTNER

✉ jonathan.rosenfeld@wilmerhale.com

☎ +1 617 526 6000

Neil Jacobs

RETIRED PARTNER

☎ +1 617 526 6000



Laura E. Schneider

PARTNER

Chair, Labor and Employment
Practice

✉ laura.schneider@wilmerhale.com

☎ +1 617 526 6846