

APPENDIX A

I-9 Requirements— Document List

Ever since the passage of the Immigration Reform and Control Act in 1986, employers have had to verify the employment authorization of each employee they hire. This is done with the I-9 form, a copy of which must be completed for each newly hired employee. IRCA is enforced by the U.S. Citizenship and Immigration Services (formerly known as the INS); the agency's home page is at www.uscis.gov/portal/site/uscis.

The USCIS has a handbook with detailed guidance on the I-9 form, including frequently asked questions and answers on employment eligibility verification and I-9 forms at the following link: www.uscis.gov/files/form/m-274.pdf.

The main things for employers to keep in mind about I-9s are:

- they are completed only for employees, not applicants;
- the documents are either one unexpired document from List A (documents showing both identity and work authorization), or one unexpired document from List B (documents showing identity) and one unexpired document from List C (documents showing work authorization);
- the lists show several different documents that are acceptable—employers may not insist on certain documents for I-9 purposes;
- use only the latest version of the I-9 form (dated Nov. 14, 2016), available as a free download on the USCIS website at www.uscis.gov/i-9; and
- keep the I-9 records for at least three years past the date of hire, or one year after the employee leaves the job, whichever is later (however, it's a good idea to keep all employment records at least seven years after the employee leaves employment).

The latest version of the I-9 form (Nov. 14, 2016) is available on the USCIS website at www.uscis.gov/i-9, and shows on page 3 a slightly different list of acceptable documents than appears in the actual regulation (shown at the end of the page). The following is a list of the acceptable documents as they appear on the most recent Form I-9 (*all documents must be unexpired*):

List A: Documents that Establish Both Identity and Employment Authorization

1. U.S. Passport or U.S. Passport Card



5. For a nonimmigrant alien authorized to work for a specific employer because of his or her status:
 - a. Foreign passport; and
 - b. Form I-94 or Form I-94A that has the following:
 - i. The same name as the passport; and
 - ii. An endorsement of the alien's nonimmigrant status as long as that period of endorsement has not yet expired and the proposed employment is not in conflict with any restrictions or limitations identified on the form.

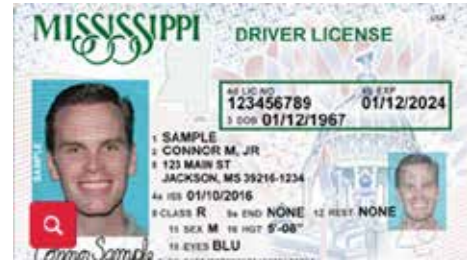


6. Passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI



List B: Documents that Establish Identity

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



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



3. School ID card with a photograph
4. Voter's registration card
5. U.S. Military card or draft record
6. Military dependent's ID card
7. U.S. Coast Guard Merchant Mariner Card
8. Native American tribal document
9. Driver's license issued by a Canadian government authority

(For persons younger than 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

List C: Documents that Establish Employment Authorization

1. A Social Security Account Number card, unless the card includes one of the following restrictions:
 - a) NOT VALID FOR EMPLOYMENT
 - b) VALID FOR WORK ONLY WITH INS AUTHORIZATION
 - c) VALID FOR WORK ONLY WITH DHS AUTHORIZATION



2. Certification of Birth Abroad issued by the Department of State (Form FS-545)



3. Certification of Report of Birth issued by the Department of State (Form DS-1350)

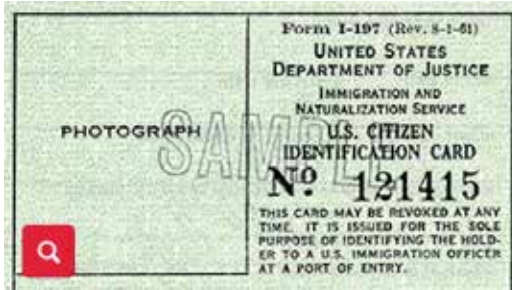


4. Original or certified copy of birth certificate issued by a State, county, municipal authority or territory of the United States bearing an official seal

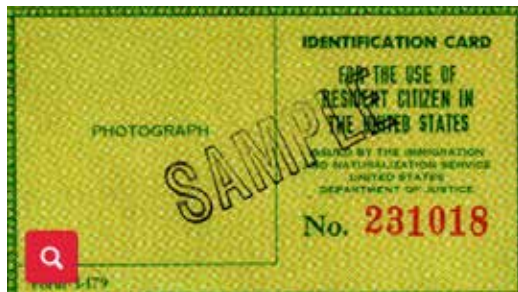


5. Native American tribal document
[No image available.]

6. U.S. Citizen ID Card (Form I-197)



7. Identification Card for Use of Resident Citizen in the United States (Form I-179)



8. Employment authorization document issued by the Department of Homeland Security
The most recent version of the regulation is found in USCIS regulation 8 C.F.R. 274a.2(b); it is uncertain when the next revision will be posted, but the home page for e-CFR (the Electronic Code of Federal Regulations) is at www.ecfr.gov/cgi-bin/text-idx?c=ecfr&tpl=%2Findex.tpl, and the latest online copy of the regulation can be searched for by using the Browse box to go to Title 8, clicking on Parts 1–499, then on “274a.1 to 274a.14,” then on “§274a.2”; scroll down until you come to subsection (b)(1) (v). The July 22, 2010, version of the regulation is reproduced in pertinent part below:

**CODE OF FEDERAL REGULATIONS
TITLE 8—ALIENS AND NATIONALITY**

CHAPTER I—

DEPARTMENT OF HOMELAND SECURITY (IMMIGRATION AND NATURALIZATION SERVICE)

PART 274a—CONTROL OF EMPLOYMENT OF ALIENS—Table of Contents

Subpart A—Employer Requirements

Sec. 274a.2 Verification of identity and employment authorization.

(b) Employment verification requirements—(1) Examination of documents and completion of Form I-9.

(v) The individual may present either an original document which establishes both employment authorization and identity, or an original document which establishes employment authorization and a separate original document which establishes identity. Only unexpired documents are acceptable. The identification number and expiration date (if any) of all documents must be noted in the appropriate space provided on the Form I-9.

[List A]

(A) The following documents, so long as they appear to relate to the individual presenting the document, are acceptable to evidence both identity and employment authorization:

1. A United States passport;
2. An Alien Registration Receipt Card or Permanent Resident Card (Form I-551);
3. A foreign passport that contains a temporary I-551 stamp, or temporary I-551 printed notation on a machine-readable immigrant visa;
4. An Employment Authorization Document which contains a photograph (Form I-766);
5. In the case of a nonimmigrant alien authorized to work for a specific employer incident to status, a foreign passport with a Form I-94 (see §1.4) or Form I-94A bearing the same name as the passport and containing an endorsement of the alien's nonimmigrant status, as 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;
6. A passport from the Federated States of Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form I-94 or Form I-94A indicating nonimmigrant admission under the Compact of Free Association Between the United States and the FSM or RMI;
7. In the case of an individual lawfully enlisted for military service in the Armed Forces under 10 U.S.C. 504, a military identification card issued to such individual may be accepted only by the Armed Forces.

[List B]

(B) The following documents are acceptable to establish identity only:

1. For individuals 16 years of age or older:
 - i. A driver's license or identification card containing a photograph, issued by a state (as defined in section 101(a)(36) of the Act) or an outlying possession of the United States (as defined by section 101(a)(29) of the Act). If the driver's license or identification card does not contain a photograph, identifying information shall be included such as: name, date of birth, sex, height, color of eyes and address;
 - ii. School identification card with a photograph;
 - iii. Voter's registration card;
 - iv. U.S. military card or draft record;
 - v. Identification card issued by federal, state, or local government agencies or entities. If the identification card does not contain a photograph, identifying information shall be included such as: name, date of birth, sex, height, color of eyes, and address;

- vi. Military dependent's identification card;
 - vii. Native American tribal documents;
 - viii. United States Coast Guard Merchant Mariner Card;
 - ix. Driver's license issued by a Canadian government authority;
2. For individuals under age 18 who are unable to produce a document listed in paragraph (b)(1)(v)(B) (1) of this section, the following documents are acceptable to establish identity only:
- i. School record or report card;
 - ii. Clinic doctor or hospital record;
 - iii. Daycare or nursery school record.
3. Minors under the age of 18 who are unable to produce one of the identity documents listed in paragraph (b)(1)(v)(B) (1) or (2) of this section are exempt from producing one of the enumerated identity documents if:
- i. The minor's parent or legal guardian completes on the Form I-9 Section 1—"Employee Information and Verification" and in the space for the minor's signature, the parent or legal guardian writes the words, "minor under age 18."
 - ii. The minor's parent or legal guardian completes on the Form I-9 the "Preparer/Translator certification."
 - iii. The employer or the recruiter or referrer for a fee writes in Section 2—"Employer Review and Verification" under List B in the space after the words "Document Identification #" the words, "minor under age 18."
4. Individuals with handicaps, who are unable to produce one of the identity documents listed in paragraph (b)(1)(v)(B) (1) or (2) of this section, who are being placed into employment by a nonprofit organization, association or as part of a rehabilitation program, may follow the procedures for establishing identity provided in this section for minors under the age of 18, substituting where appropriate, the term "special placement" for "minor under age 18," and permitting, in addition to a parent or legal guardian, a representative from the nonprofit organization, association or rehabilitation program placing the individual into a position of employment, to fill out and sign in the appropriate section, the Form I-9. For purposes of this section the term individual with handicaps means any person who
- i. Has a physical or mental impairment which substantially limits one or more of such person's major life activities,
 - ii. Has a record of such impairment, or
 - iii. Is regarded as having such impairment.

[List C]

(C) The following are acceptable documents to establish employment authorization only:

1. A Social Security account number card other than one that specifies on the face that the issuance of the card does not authorize employment in the United States;*
2. Certification of Birth issued by the Department of State, Form FS-545;
3. Certification of Report of Birth issued by the Department of State, Form DS-1350;
4. 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;
5. Native American tribal document;
6. United States Citizen Identification Card, Form I-197;
7. Identification card for use of resident citizen in the United States, Form I-179;
8. An employment authorization document issued by the Department of Homeland Security.

Receipts and Reverification of Documents

8 C.F.R. § 274a.2(b)(1)(vi)(A) provides that unless the employment is for less than three business days, a receipt for a lost, stolen or damaged document will suffice for I-9 purposes as long as the replacement document itself is presented within 90 days of hire or, in the case of reverification, no later than the expiration date of the reverified document. The receipt is not acceptable, though, if the employer has actual or constructive knowledge that the employee is not authorized to work in the United States. Other receipts that are acceptable with restrictions are the arrival portion of the Form I-94 or I-94A containing an unexpired Temporary I-551 stamp and photograph, or the departure portion of Form I-94 or I-94A with an unexpired refugee admission stamp. For details on receipts, see question 17 (page 45 in the PDF online) in [Publication M-274](#), the I-9 handbook for employers

ID cards (included in the List B documents) often cause confusion. A frequent issue is whether a driver's license is required, or some other forms of ID can suffice. A related issue is whether ID cards with expiration dates must be reverified upon expiration. First, the ID document listed first in List B does not have to be a driver's license—it can be any government-issued ID card, even a parolee's ID card if the date of birth, gender, height, eye color and address are on it. Second, regarding reverification of expired ID cards, as the note on the top of page 4 of the latest [I-9 form](#) specifies, "all documents must be unexpired" when presented for verification. However, the only expirable documents that require a tickler-based reverification procedure are those that involve work authorization, not identity. Thus, the DHS documents that expire would have to be reverified upon expiration, i.e., new, unexpired documents would have to be presented. If a document used only for identity purposes expires, that does not require reverification. See question 28 (page 47 in the PDF online) of the employer handbook, [Publication M-274](#), which includes the following statement:

“You may not reverify an expired U.S. passport or passport card, an Alien Registration Receipt Card/ Permanent Resident Card (Form I-551), or a List B document that has expired.” Driver’s licenses and similar ID cards appear in List B.

* SSA regulation 20 C.F.R. § 422.103(e)(3) — “Restrictive legend change defined. ... This restrictive legend appears on the card above the individual’s name and SSN. Individuals without work authorization in the U.S. receive SSN cards showing the restrictive legend, ‘Not Valid for Employment’; and SSN cards for those individuals who have temporary work authorization in the U.S. show the restrictive legend, ‘Valid For Work Only With DHS Authorization.’ U.S. citizens and individuals who are permanent residents receive SSN cards without a restrictive legend. ... ”