



E-Verify and I-9 Training: The Time is Right

PRESENTED BY:
Katy Lopez, Attorney
May 20, 2015

Agenda

- **What is E-Verify?**
- **A way for H-1B lottery losers to win**
- **But are you ready?**
- **I-9 fundamentals**
- **Q&A**

What Is E-Verify?

- **U.S. government's free web-based system for verifying employees' work authorization**
- **It pulls from I-9s to check databases of DHS and SSA**
- **Already mandatory for certain employers**
 - Certain types of federal contractors nationwide
 - Piecemeal — All employers in some states and some types of employers in other states
- **All signs point to future mandate for all employers**
 - Comprehensive immigration reform proposals
 - "Legal Workforce Act" — House Judiciary Subcommittee bill passed in March 2015
- **The survey says: It's getting better all the time**
- **<http://www.uscis.gov/e-verify>**

Is It a Good Fit?

- **I-9 house in order**
- **At least 10 FN employees with STEM degrees**
- **Filed at least 10 FY Hs this year**
- **Low incidence of unauthorized workers**
- **Dedicated resources — you!**

Pros and Cons

PROS

- Get STEM extensions
- Show good faith
- Get a headstart
- Can un-enroll anytime
- Lots of resources

Pros and Cons

CONS

- **MOU – Read the fine print!**
- **Need to stay on top of it**
- **TNCs take up your and employees' time**
- **Adds an extra step to your hiring process**

STEM Extensions — A Win-Win

- **STEM employees in F-1 OPT can receive an additional 17 months' work authorization**
 - $12 + 17 =$ a total of 29 months!
- **STEM = Science, Technology, Engineering and Math**
 - Employee has + position requires
- **An attractive backup plan for FY H lottery losers**
 - Two or even three bites at the apple
- **Enables further evaluation of employee if desired**

Getting Ready

- **Whom to involve?**
 - Decision-makers
 - Program administrator
 - Registered users
- **Which hiring site(s)?**
- **Understand and vet your system for completing I-9s**
 - I-9 self-audit recommended
- **Review MOU at all levels!**
- **Peruse USCIS' resources:**
 - How-to-enroll video
 - Enrollment checklist
 - Quick Reference Guide for employers

All Systems Go

- Once it's on, it's on
- Simple and swift process
- Know who and who not to run through E-Verify
- No pre-screening allowed!
- Differences for I-9 completion
- Know what to do if TNC received
- If it's too much, un-enroll

Timeline for STEM employees

- **Enroll in E-Verify and get company ID number**
- **Employee must file STEM OPT EAD application before regular OPT expires**
- **Don't run through E-Verify — s/he already works for you!**
- **Reverify on Form I-9 when it's time**

I-9 Fundamentals

- **Purposes**
 - Verify identity and work authorization of all new hires
 - But don't discriminate
- **Who's allowed to work?**
 - U.S. citizens
 - Lawful permanent residents (green card holders)
 - Noncitizen nationals of the United States
 - "Aliens" authorized to work?
- **How do the I-9 and E-Verify work together?**

Form I-9 — New and Improved



Employment Eligibility Verification

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

USCIS
Form I-9
OMB No. 1615-0047
Expires 03/31/2016

▶ **START HERE.** 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-authorized individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because the documentation presented has a future expiration date may also constitute illegal discrimination.

Section 1. Employee Information and Attestation (Employees must complete and sign Section 1 of Form I-9 no later than the first day of employment, but not before accepting a job offer.)

Last Name (Family Name)		First Name (Given Name)		Middle Initial	Other Names Used (if any)	
Address (Street Number and Name)			Apt. Number	City or Town		State
Date of Birth (mm/dd/yyyy)		U.S. Social Security Number		E-mail Address		Telephone Number

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):

- A citizen of the United States
- A noncitizen national of the United States (See instructions)
- A lawful permanent resident (Alien Registration Number/USCIS Number): _____
- An alien authorized to work until (expiration date, if applicable, mm/dd/yyyy) _____. Some aliens may write "N/A" in this field. (See instructions)

For aliens authorized to work, provide your Alien Registration Number/USCIS Number OR Form I-94 Admission Number:

1. Alien Registration Number/USCIS Number: _____

OR

2. Form I-94 Admission Number: _____

If you obtained your admission number from CBP in connection with your arrival in the United States, include the following:

Foreign Passport Number: _____

Country of Issuance: _____

Some aliens may write "N/A" on the Foreign Passport Number and Country of Issuance fields. (See instructions)

Signature of Employee:	Date (mm/dd/yyyy):
------------------------	--------------------

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.

Signature of Preparer or Translator:		Date (mm/dd/yyyy):	
Last Name (Family Name)		First Name (Given Name)	
Address (Street Number and Name)			City or Town
		State	Zip Code

STOP **Employer Completes Next Page** STOP

Section 2. Employer or Authorized Representative Review and Verification

(Employers or their authorized representative must complete and sign Section 2 within 3 business days of the employee's first day of employment. You must physically examine one document from List A OR examine a combination of one document from List B and one document from List C as listed on the "Lists of Acceptable Documents" on the next page of this form. For each document you review, record the following information: document title, issuing authority, document number, and expiration date, if any.)

Employee Last Name, First Name and Middle Initial from Section 1:

List A Identify and Employment Authorization	OR	List B Identify	AND	List C Employment Authorization
Document Title:		Document Title:		Document Title:
Issuing Authority:		Issuing Authority:		Issuing Authority:
Document Number:		Document Number:		Document Number:
Expiration Date (if any)(mm/dd/yyyy):		Expiration Date (if any)(mm/dd/yyyy):		Expiration Date (if any)(mm/dd/yyyy):
Document Title:		3-D Barcode Do Not Write in This Space		
Issuing Authority:				
Document Number:				
Expiration Date (if any)(mm/dd/yyyy):				
Document Title:				
Issuing Authority:				
Document Number:				
Expiration Date (if any)(mm/dd/yyyy):				

Certification

I attest, under penalty of perjury, that (1) I have examined the document(s) presented by the above-named employee, (2) the above-listed document(s) appear to be genuine and to relate to the employee named, and (3) to the best of my knowledge the employee is authorized to work in the United States.

The employee's first day of employment (mm/dd/yyyy): _____ (See instructions for exemptions.)

Signature of Employer or Authorized Representative:	Date (mm/dd/yyyy):	Title of Employer or Authorized Representative:
---	--------------------	---

Last Name (Family Name)	First Name (Given Name)	Employer's Business or Organization Name
-------------------------	-------------------------	--

Employer's Business or Organization Address (Street Number and Name)	City or Town	State	Zip Code
--	--------------	-------	----------

Section 3. Reverification and Rehires

(To be completed and signed by employer or authorized representative.)

A. New Name (if applicable) Last Name (Family Name) First Name (Given Name) Middle Initial	B. Date of Rehire (if applicable) (mm/dd/yyyy):
--	---

C. If employee's previous grant of employment authorization has expired, provide the information for the document from List A or List C the employee presented that establishes current employment authorization in the space provided below.		
Document Title:	Document Number:	Expiration Date (if any)(mm/dd/yyyy):

I attest, under penalty of perjury, that to the best of my knowledge, this employee is authorized 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 (mm/dd/yyyy):	Print Name of Employer or Authorized Representative:
---	--------------------	--

Help Is on the Way

- I-9 instructions
- M-274 Handbook for Employers:
<http://www.uscis.gov/files/form/m-274.pdf>
- USCIS' I-9 Central website: www.uscis.gov/I-9Central
- USCIS webinars, videos and factsheets
- Ask immigration counsel

SECTION 1: Completed by Employee

- **Section 1 must be completed by employee by end of first day of work, or as early as date when job offer accepted**
- **Give employee the Form I-9, including instructions and List of Acceptable Docs, and tell employee to complete Section 1 by end of first day, and bring acceptable combination of docs within three days of first day**
- **All fields completed?**
- **Optional fields**

SECTION 2: Completed by Employer

- Section 2 must be completed by employer within three business days of employee's first day of employment
- Employer or agent must examine *original* documents while employee is *physically present* — A or (B+C)
- Employee's choice of which documents to present!

SECTION 2 continued

- Docs must reasonably appear to relate to employee and reasonably appear to be genuine on their face
- Best practice recommendation — Make copies of docs presented and staple behind I-9
- What if employee doesn't bring docs by third day?

SECTION 3: Reverification

- For employees who checked box 4, employer must reverify no later than expiration date provided
- Do not reverify non-box 4 employees
- Use current version and complete Section 3
- Implement tickler system

Remediation Tips

- Conduct internal audits once a year
- Compare against payroll records, and if missing an I-9, provide employee with a new I-9 including instructions and list, and give three business days to complete
- Never backdate (only date in past will be hire date, taken directly from payroll records)
- Strike through; never white out or black out information
- Initial and date all corrections using current date

When the Government Comes Knocking

- DHS (including ICE), DOJ's OSC and DOL all have the authority to inspect an employer's Forms I-9
- Notice of Inspection — A minimum of three days' notice must be given
- Remediation done *before* a Notice of Inspection (NOI) carries the most weight; helpful either way
- Fines range from \$110 to \$1,100 per I-9
- Remember — *Never backdate*



QUESTIONS & ANSWERS

(and see next page)

HR Certification and CA MCLE

This program, ORG-PROGRAM-242633, has been approved for 1.00 (General) recertification credit hour toward PHR, SPHR and GPHR recertification through the HR Certification Institute. Please be sure to note the program ID number on your recertification application form. For more information about certification or recertification, please visit the HR Certification Institute website at www.hrci.org.

This program also provides 1.0 hour toward the California MCLE requirement. Please email schau@wsmimmigration.com for the Certificate of Attendance for your records.

For more information, contact:

Katy Lopez (klopez@wsmimmigration.com)

or the attorney with whom you normally work at WSM



550 Montgomery St., Ste. 650
San Francisco, CA 94111
T. 415.395.9331
F. 415.395.9372

wsmimmigration.com