

# PUBLICATION

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## New I-9 Form Required as of May 7, 2013

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**Starting at least by May 7, 2013, U.S. employers must use a new 03/08/13 version of Form I-9 when hiring workers to verify their identity and employment authorization. The changes are relatively minor but deserve attention. The new form should be available for download at [www.uscis.gov/i-9](http://www.uscis.gov/i-9) on March 8 or shortly thereafter, according to a March 8 Federal Register notice.**

For the first time, the form itself clarifies that the employer's portion must be completed "no later than the first day of employment, but not before accepting a job offer." This confirms the emerging notion that, while the worker must complete Section 1 on the first day of work, the employer's portion may be completed as late as the fourth day of work.

The employee must provide "Other Names Used" rather than only "Maiden Name" as before. The instructions require "all other names used, if any (including maiden name). If you have had no other legal names, write 'N/A'." It seems that this field is designed to help E-Verify or ICE determine if the worker has received work authorization in a previously held name, potentially avoiding an unnecessary "tentative nonconfirmation." The use of "legal name" in the instructions suggests that the form is NOT asking for nicknames and such.

The employee is newly asked to provide email address and telephone number. The instructions state that these fields are optional, as with the social security number (other than when the employer uses E-Verify, making SSN not optional), but the form does not mention that these fields are optional. An employer is not required to reverify or update Form I-9 or E-Verify when the employee might change address, phone, etc.

Sections 1 and 2 now refer to "USCIS number" in addition to "alien registration number" for permanent resident aliens. The instructions and regulations do not define "USCIS number," which seems to be just another way to refer to the alien number, an 8 or 9-digit number following the letter A.

Section 1 now requires a worker using a work authorizing visa classification to provide not only an I-94 number but also the foreign passport number and country of citizenship, which corresponds with the information the employer must complete in Section 2.

The employer now is required to write the employee's full name in Section 2. The purpose of repeating the name on the same form is not clear.

The form refers to instructions about "exemptions" from the requirement to indicate the date for the employee's "first day of work." The instructions state that "Temporary staffing agencies may enter the first day the employee was placed in a job pool. Recruiters and referrers for a fee do not enter the employee's first day of employment." This is a helpful clarification for staffing agencies who choose to complete I-9 for workers when they are placed in a job pool rather than waiting for actual placement with a customer employer.

Section 3 for "reverification and rehires" now recognizes that the employee may be presenting a "New name" reflecting a name change from court order, marriage, divorce, etc. The form does not address the dilemma employers face when an employer presents a completely new identity, not correlated to the prior identity, which

USCIS now has said should trigger a new E-Verify query despite rules otherwise prohibiting a new E-Verify query for an existing worker, even when presenting a new name.

Section 3 clarifies the different types of annotations on a social security card that would make it unacceptable for evidence of work authorization.