

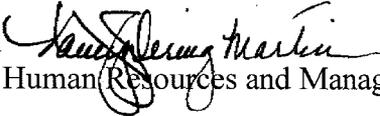


Commonwealth of Pennsylvania
Governor's Office, Office of Administration

Date: April 14, 2006

Subject: Employment Eligibility Verification I-9 Form

To: HUMAN RESOURCE DIRECTORS OF ALL DEPARTMENTS,
INDEPENDENT ADMINISTRATIVE BOARDS AND COMMISSIONS
AND OTHER AGENCIES UNDER THE GOVERNOR'S JURISDICTION

From: Nancy Dering Martin 
Deputy Secretary for Human Resources and Management

The current I-9 Form for employment eligibility verification has not been substantively revised since 1995 and some of the forms it references are no longer in use and others have been added. Please note the following changes to the Form I-9 process:

- Form I-766 (Employment Authorization Document), although not listed on the 5/31/05 version of the Form I-9, is an acceptable List A document #10.
- Form I-151 is no longer an acceptable List document #5. However, Form I-551 remains an acceptable List A document #5.
- The following documents have been removed from the list of acceptable identity and work authorization documents: Certificate of U.S. Citizenship (List A #2); Certificate of Naturalization (List A #3); Unexpired Reentry Permit (List A #8); and Unexpired Refugee Travel Document (List A #9).

Future expiration dates may appear on the employment authorization documents of aliens including, among others, permanent residents, temporary residents, and refugees. INS includes expiration dates even on documents issued to aliens with permanent work authorization. The existence of a future expiration date:

- Does not preclude continuous employment authorization;
 - Does not mean that subsequent authorization will not be granted; and
 - Should not be considered in determining whether the alien is qualified for a particular position.
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Consideration of a future employment authorization in determining whether an alien is qualified for a particular job may constitute employment discrimination. It will be necessary to reverify the employee's eligibility to work when any expiration date on the Form I-9 is reached. This reverification must be completed not later than the date the employee's work authorization expires. You may use Section 3 of the I-9 for this purpose. The employee must present a document that shows either an extension of the employee's initial employment authorization or new work authorization. If the employee can not provide proof of current work authorization they can not continue to be employed and must be terminated.

In November 1994 the Commonwealth announced its policy that it would not sponsor applicants for an H-1B visa because of the liability issues involved. That policy is still in effect and a copy is attached for your information. The Office of General Counsel has confirmed that there is no legal obligation that requires the Commonwealth to change this policy. However, it is the obligation of the individual to provide documentation that they are eligible to work in this country and it is the employer's obligation to ensure that this documentation satisfies the requirements imposed by federal law through the I-9 process.

The North American Free Trade Agreement (NAFTA) facilitates employment in the United States of certain Canadian and Mexican professional workers. The NAFTA created TN status however is intended for temporary employment only. Therefore, this status should not be used for permanent positions.

The U.S. Department of Homeland Security has extensive information on the I-9 process at its website <http://uscis.gov/graphics/formsfee/forms/i-9.htm>.

If, after reviewing this information, you have any questions regarding the I-9 process, NAFTA, or other immigration related issues, please contact Paula Halbritter, Policy and Programs Planning Division at 787-8001 or at phalbritte@state.pa.us.

Attachment

cc: Secretary Masch