

EMPLOYERS DIRECTED TO USE NEW FORM I-9 VERIFYING WORK ELIGIBILITY BY MAY 7

By Scott J. Wenner

Last week the U.S. Citizenship and Immigration Services (USCIS) agency of the U.S. Department of Homeland Security, unveiled in the *Federal Register* a revised Employment Eligibility Verification Form, which is better known as a Form I-9. For more than 25 years, employers have been required to use the Form I-9 to confirm the identity and the eligibility of all newly hired employees for all levels of an organization to work in the United States.

According to USCIS the new Form I-9 makes several improvements that are intended to minimize errors in completing the Form. It identifies the key revisions to Form I-9 as including:

- the addition of new data fields to include a new employee's foreign passport information, e-mail address and telephone number;
- improvements to the instructions provided with the Form I-9; and
- a new layout that expands the current one-page completion portion of the Form I-9 to two pages.

Deadlines and Penalties

USCIS directs that employers must use the revised Form I-9 exclusively by *May 7, 2013*. Until then, while the new Form may be downloaded and used, employers may use the old version. After May 7, the agency warns that the failure to use the new Form I-9 will subject an employer to "all applicable penalties under section 274A of the INA, 8 U.S.C.1324a, as enforced by U.S. Immigration and Customs Enforcement (ICE) and [the Department of Justice]." Civil penalties for so-called "paperwork violations" range from \$100 to \$1,000 per

violation. Factors considered in determining the amount of a penalty include the size of the business of the employer being charged, the good faith of the employer, the seriousness of the violation, whether or not the individual was an unauthorized alien, and any history of previous violations.

The new Form I-9 contains a revision date in the lower right hand corner denoted "Rev. 03/08/13."

The Notice in the *Federal Register* can be found [here](#). The new Form I-9, including instructions, is available [here](#). ♦

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