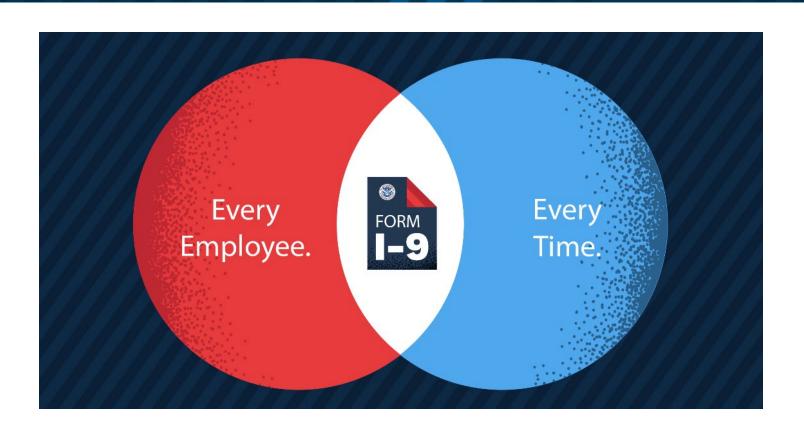


# Form I-9 Employment Eligibility Verification



## Disclaimer

This presentation is intended for employers and their authorized representatives. This presentation provides basic guidance about the rules and responsibilities during the employment eligibility verification process. For more information visit the <u>I-9 Central</u> website.

This presentation is not intended for members of the media. For all media inquiries visit the <u>U.S. Citizenship and Immigration</u>
<u>Services Media Contacts</u> webpage.

This **public webinar** is not eligible for SHRM/HRCI professional development credits. Webinars that **are eligible** for professional development credits can be found on the <u>E-Verify website</u>

# Agenda

- Background
- Completing the Form I-9
- Storage and Retention
- Form I-9 and E-Verify
- Resources



# Background



In 1986, in an effort to control illegal immigration, Congress passed the Immigration Reform and Control Act (IRCA).

**IRCA** forbids employers from knowingly hiring individuals who do not have work authorization in the United States.

The employment eligibility verification provisions, and sanctions, of <a href="IRCA">IRCA</a> are found in <a href="Section 274A">Section 274A</a> of the <a href="Immigration and Nationality Act">Immigration and Nationality Act</a> (INA).

# Working in the U.S.

- Citizens of the United States
- Noncitizen Nationals of the United States
- Lawful Permanent Residents
- Aliens Authorized to Work





# **Employment Verification**

To comply with the employment eligibility verification provisions **ALL** employers must:

- For Employees hired after November 6, 1986
  - Verify the identity and employment authorization documents
  - Complete and retain a Form I-9
- Employers MUST refrain from discriminating against individuals on the basis of actual or perceived national origin, citizenship or immigration status

# **Preventing Discrimination**

The anti-discrimination provisions of the INA prohibit four types of <u>unlawful conduct</u>:

- Citizenship or immigration status discrimination\*
- National origin discrimination\*
- Unfair documentary practices during Form I-9 process
- Retaliation

\* Actual or perceived

# Immigrant and Employee Rights Section (IER)

The anti-discrimination provisions of the INA are enforced by:

Department of Justice Civil Rights Division Immigrant and Employee Rights Section

 Employees may contact <u>IER</u> anonymously for information regarding employment discrimination and employee rights and responsibilities.

1-800-255-7688 (TDD: 1-800-616-5525)

Employers may also contact IER anonymously.

1-800-255-8155 (TDD: 1-800-362-2735)



— U.S DEPARTMENT OF JUSTICE —

IMMIGRANT & EMPLOYEE RIGHTS SECTION

— CIVIL RIGHTS DIVISION —

See <u>IER's "Employer Dos and Don'ts."</u>



# Form I-9 Requirements

- As of May 1, 2020 you can only use <u>Form I-9, Employment Eligibility</u> <u>Verification</u>, with the 10/21/2019 revision date for all new hires and reverifications.
  - Employers are not required to have Forms I-9 for employees hired on or before November 6, 1986.
- You may delegate the authority to complete Form I-9 to an authorized representative, however, you will retain liability for any errors.

Visit <u>I-9 Central Related News</u> for updates.

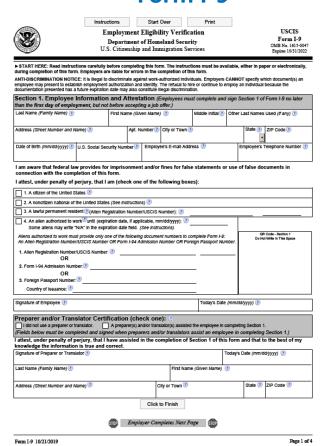
# **Completing Form I-9**

## **Lists of Acceptable Documents**

#### LISTS OF ACCEPTABLE DOCUMENTS All documents must be UNEXPIRED Employees may present one selection from List A or a combination of one selection from List B and one selection from List C. Documents that Establish Documents that Establish Documents that Establish Both Identity and Identity **Employment Authorization** Employment Authorization 1. U.S. Passport or U.S. Passport Card Driver's license or ID card issued by a 1. A Social Security Account Number State or outlying possession of the card unless the card includes one of 2. Permanent Resident Card or Alien United States provided it contains a the following restrictions: Registration Receipt Card (Form I-551) photograph or information such as (1) NOT VALID FOR EMPLOYMENT name, date of birth, gender, height, eye 3. Foreign passport that contains a (2) VALID FOR WORK ONLY WITH color, and address INS AUTHORIZATION temporary I-551 stamp or temporary I-551 printed notation on a machine-ID card issued by federal, state or local (3) VALID FOR WORK ONLY WITH readable immigrant visa government agencies or entities. DHS AUTHORIZATION provided it contains a photograph or 4. Employment Authorization Document Certification of report of birth issued information such as name, date of birth, that contains a photograph (Form gender, height, eye color, and address DS-1350, FS-545, FS-240) 3 School ID card with a photograph. 3. Original or certified copy of birth 5. For a nonimmigrant alien authorized to work for a specific employer 4. Voter's registration card certificate issued by a State. county, municipal authority, or because of his or her status: 5. U.S. Military card or draft record territory of the United States a. Foreign passport; and bearing an official seal 6. Military dependent's ID card b. Form I-94 or Form I-94A that has 4. Native American tribal document the following: U.S. Coast Guard Merchant Mariner (1) The same name as the passport 5. U.S. Citizen ID Card (Form I-197) 8. Native American tribal document 6. Identification Card for Use of (2) An endorsement of the alien's Resident Citizen in the United 9. Driver's license issued by a Canadian nonimmigrant status as long as government authority States (Form I-179) that period of endorsement has not yet expired and the Employment authorization proposed employment is not in For persons under age 18 who are document issued by the conflict with any restrictions or unable to present a document Department of Homeland Security limitations identified on the form. listed above: 6. Passport from the Federated States of 10. School record or report card Micronesia (FSM) or the Republic of the Marshall Islands (RMI) with Form 11. Clinic, doctor, or hospital record I-94 or Form I-94A indicating nonimmigrant admission under the 12. Day-care or nursery school record Compact of Free Association Between the United States and the FSM or RM Examples of many of these documents appear in Part 13 of the Handbook for Employers (M-274).

Refer to the instructions for more information about acceptable receipts.

#### Form I-9





# Form I-9 Exceptions

## You are **NOT** required to complete Form I-9 for:

- Casual domestic service employees working in a private household when work is sporadic, irregular or intermittent;
- Independent contractors for whom you do not set work hours or provide tools to do the job; or
- Employees working outside the United States.\*

\* This statement excludes the 50 States, District of Columbia, Guam, Puerto Rico, U.S. Virgin Islands, and the Commonwealth of the Northern Mariana Islands

## Form I-9 Section 1: Employee Information and Attestation

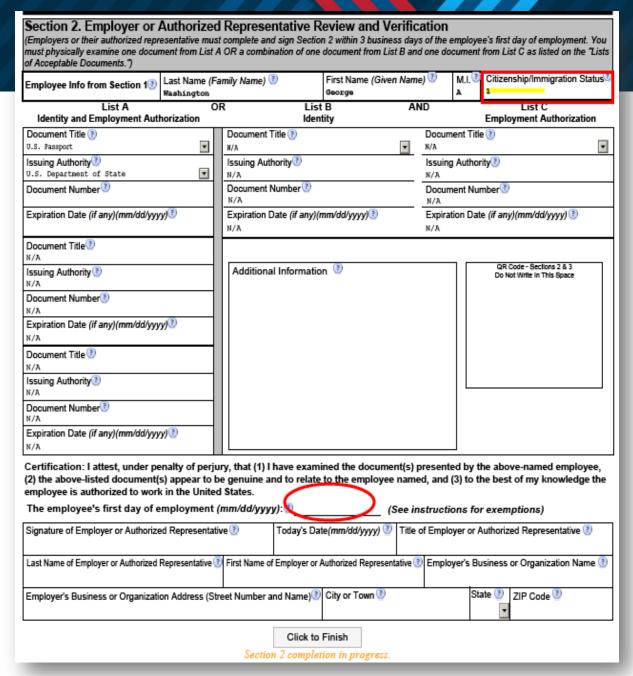
- Worker completes Section
   1 no later 1<sup>st</sup> day of work
   for pay
- Social Security Number is required for E-Verify
- E-mail address is optional for employee
  - If provided, it MUST be entered in E-Verify
  - Not a business e-mail address
- Attestation
- Preparer or Translator



прюусс		rici ei					CIOII			
Section 1. Employee Ir than the first day of employe			, , ,	ist complete and	sign Sed	ction 1 of	Form I-9 no later			
Last Name (Family Name) 📵		First Name (Given Name) ②		Middle Initial (2) Othe		her Last Names Used (if any) 💿				
Address (Street Number and Na	me) 📵	Apt. Numbe	City or Town	D		State 🕝	ZIP Code 3			
Date of Birth (mm/dd/yyyy) ③ U.S. Social Security Number ③			Employee's E-mail Address 🕐			Employee's 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 boxes):										
1. A citizen of the United States 🖲										
2. A noncitizen national of the United States (See instructions)										
3. A lawful permanent resident (2) (Alien Registration Number/USCIS Number): (2)										
4. An alien authorized to work Some aliens may write "N					-	<u> </u>				
Aliens authorized to work must An Alien Registration Number/U							QR Code - Section 1 Not Write In This Space			
Alien Registration Number/U     OR	JSCIS Number: 🕖 _									
2. Form I-94 Admission Number OR				_						
3. Foreign Passport Number:										
Country of Issuance:				_						
Signature of Employee ③ Today's Date (mm/dd/yyyy) ②										
Preparer and/or Trans	lator Certification	on (check	one): 🕖							
I did not use a preparer or tra			translator(s) assisted							
(Fields below must be comple		<u> </u>		•	<u> </u>	, ,	,			
I attest, under penalty of pe knowledge the information			e completion of :	Section 1 of this	s form ar	nd that t	o the best of my			
Signature of Preparer or Transla	tor 🕖				Foday's Da	ate (mm/d	d/yyyy) 🕐			
Last Name (Family Name) 3			First Nam	e (Given Name) (	<b>3</b>					
Address (Street Number and Na	me) 🕑		City or Town 3			State 🕐	ZIP Code ②			
		CI	ick to Finish		•					

## Form I-9 Section 2: Employer Certification of Document Review

- Section 2 no later than 3 business days after the employee begins work for pay.
- The person that examines the **original**, **unexpired documents** in the presence of the employee **MUST** fill out, sign and date Section 2.
- Date fields
  - Today's date
  - First day of employment





# COVID-19: Temporary Policy for List B Identity Documents

Beginning on May 1, List B docs set to expire on or after March 1, 2020, and **not otherwise extended** by the issuing authority, may be treated the same as if the employee presented a valid receipt for an acceptable document for Form I-9 purposes.

## When your employee provides a List B document not extended by the issuing authority you should:

- Record the document information in Section 2 under List B; and,
- Enter the word "COVID-19" in the Additional Information Field
- Within 90 days after DHS's termination of this temporary policy, the employee will be required to present a valid unexpired document to replace the expired document presented when they were initially hired.

## When the employee later presents an unexpired document, you should:

- In the Additional Information Field, record the number and other required document information from the actual document presented;
- Initial and date the change.

#### Notes:

- \*It is best if the employee can present the replacement of the actual document that was expired, but if necessary, the employee may choose to present a different List A or List B document or documents
- \*E-Verify participating employers should use the employee's expired List B document number from Section 2 of the Form I-9 to create an E-Verify case as usual within three days of the date of hire.



# COVID-19: Temporary Policy for List B Identity Documents continued

If the employee's List B identity document expired on or after March 1, 2020, and the issuing authority has extended the document expiration date due to COVID-19, the document is acceptable as a List B document for Form I-9 (not as a receipt) during the extension timeframe specified by the issuing authority.

## When your employee provides a List B document extended by the issuing authority you should:

- Enter the document's expiration date in Section 2; and,
- Enter "COVID-19 EXT" in the Additional Information Field.

Employers may also attach a copy of a webpage or other notice indicating that the issuing authority has extended the documents. Employers can confirm that their state has auto-extended the expiration date of state IDs and driver's licenses by checking the state Motor Vehicle Administration or Department of Motor Vehicles' website.

#### Note:

- \*For extended documents, the employee is not required to later present a valid unexpired List B document.
- \*E-Verify participating employers should use the employee's expired List B document number from Section 2 of the Form I-9 to create an E-Verify case as usual within three days of the date of hire.



# COVID-19: Form I-9 Physical Document Review Flexibility

The Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) announced flexibility in complying with requirements related to Form I-9, due to COVID-19. These provisions have been extended through **December 31**st, **2021.** 

- Applies only to employers and workplaces that are operating remotely and employers must provide written documentation of their remote onboarding and telework policy for each employee. This burden rests solely with the employers.
- Employers must inspect the Section 2 documents remotely and obtain, inspect, and retain copies of the documents, within three business days of the employee's start date.
- Enter "Remote Inspection completed on MM/DD/YYYY" in the Section 2 Additional Information field.
- Within 3 business days of resuming normal operations, physically inspect documents with the employee present.
- Write "COVID-19 Documents physically examined on MM/DD/YYYY" as well as the initials of the person who performed the physical inspection to the Section 2 Additional Information field on the Form I-9, or to section 3 as appropriate.

See Form I-9 completion examples and the ICE news release for additional information.



## **Section 2: Examining Documents**

You must accept a document presented by an employee if it reasonably appears to be:

Genuine; and

Relates to the individual presenting it.

The document must be original – photocopies are NOT acceptable, except for

a <u>certified</u> copy of a birth certificate.



Brazil

SRC0000000701



## **Section 2: Receipt Rule**

A receipt showing that your employee has applied to replace a document that was **lost**, **stolen** or **damaged**.

- The receipt must be issued by the originating agency.
- Employee must present original replacement document or another acceptable document (or documents) within 90 days of the hire date.

\*Receipts are never acceptable if employment will last less than 3 business days. For more information, please see <u>I-9 Central Acceptable Documents-Receipts</u>.

**E-Verify** cases should be delayed until the replacement receipt is provided.



## **Section 2: Copying Documents**

You may choose to make copies of documents employees present for Section 2.

- If you choose to photocopy documents:
  - You must do so for ALL employees,
  - Be consistent and copy all documents employees provide



E-Verify employers must photocopy the following documents if voluntarily provided by the employee for Form I-9 Section 2: I-551 Lawful Permanent Resident Card, I-766 Employment Authorization Document, or US Passport or Passport Card

## Form I-9 Section 3: Reverification

Employee Name from Section 1:	Last Name (Family Name) 🕑	First N	ame (Given Name) 🕐	Middle Initial 🕙					
	<u>,                                    </u>								
Section 3. Reverification and Rehires (To be completed and signed by employer or authorized representative.)									
A. New Name (if applicable) ③	B. Date of Rehire (if applicable)								
Last Name (Family Name) 🖲	First Name (Given Name) 🖲	Middle Initial 🕑	Date (mm/dd/yyyy) 💿						
C. If the employee's previous grant of employment authorization has expired, provide the information for the document or receipt that establishes continuing employment authorization in the space provided below.									
Document Title ③	Document Numb	er 🕙	Expiration Date (if an	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 ③ Today's Date (mm/dd/yyyy) ③ Name of Employer or Authorized Representative ③									
Continuing 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.									

- Employers MUST reverify an employee using Form I-9 <u>Section 3</u> if their temporary employment authorization or temporary employment authorization document has expired.
- You MAY also complete Section 3 if you:
  - Rehire the employee within 3 years of the date you first completed Form I-9\*; or
  - Update the employee's biographic information
- \* Do not create a new **E-Verify** case for an existing employee you are reverifying.



# Section 3: When to Reverify on Form 1-9

## Reverify

- An Employment Authorization Document (Form I-766) with an expiration date
- Form I-94 with temporary I-551 stamp
- Unexpired foreign passport with temporary I-551 stamp
- Expired Permanent Resident
   Card presented with Form I-797

## **Do not Reverify**

- U.S. citizens and noncitizen nationals
- U.S. passports or passport cards
- Permanent Residents who present an unexpired Permanent Resident or Alien Registration Receipt card (Form I-551)
- List B documents





# **Correcting Form I-9**

## **Correcting Mistakes**

If you discover a mistake on Form I-9, correct the existing form **OR** prepare a new Form I-9:

- If you choose to correct the existing Form I-9, line out the incorrect portions, enter the correct information, and initial and date the correction.
- If you do a new Form I-9, keep the old form with the new form. You should also attach a short memo to both the new and old Forms I-9 stating the reason for your action.

## **Missing Forms**

If you discover you are missing the Form I-9 for an employee:

- Give the employee the current version of the Form I-9;
- Complete the form as soon as possible;
- Do not backdate the form; and
- Attach a signed and dated explanation of the corrective action.

## **Guidance for Conducting Internal Audits**



# **Storage**

- You must have a Form I-9 on file for all current employees.
- Store Forms I-9 securely in a way that meets your business needs on site, off-site, storage facility.
- Store copies of documents with the Form I-9 or with the employee's records.
- Ensure that only authorized personnel have access to stored Forms I-9.
- Make Forms I-9 available within 3 days of an official request for inspection.

## Retention

Calculate how much longer you must keep an employee's Form I-9 once they stop working for you:

If they worked for less than two years, retain their form for three years after the date you entered in the First Day of Employment field.

## **OR**

If they worked for more than two years, retain their form for one more year after the date they stop working for you.

Storage and Retention

### **EXAMPLES:**

John Smith (Hired Nov. 1, 2019, terminated May 5, 2020): John worked for less than 2 years, keep his form for 3 years, until 11/01/2022

Betsy Ross (Hired Nov. 1, 2002, terminated May 5, 2020): Betsy worked for more than 2 years, keep her form for one more year, until 05/05/2021

# Form I-9 and E-Verify

## Form I-9 and E-Verify

You must complete Form I-9 before you create a case in E-Verify.





# What is E-Verify?

- Free web-based service that's fast and easy to use
- Electronically verifies the employment eligibility of:
  - Newly hired employees; and
  - Existing employees assigned to work on a qualifying federal contract
- Partnership between the U.S.
   Department of Homeland
   Security (DHS) and the Social
   Security Administration (SSA)









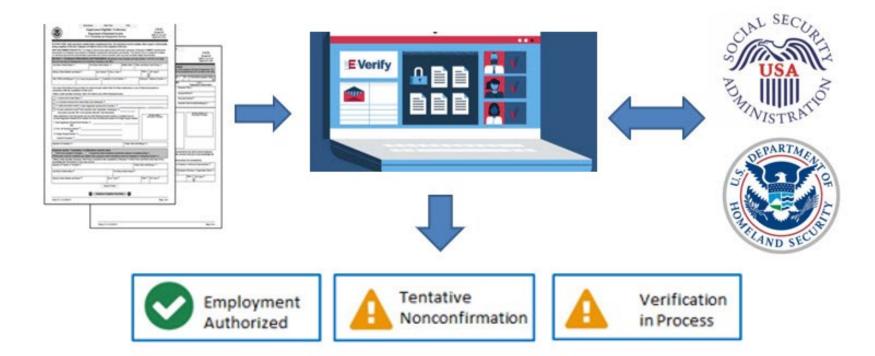


# **E-Verify Goals**

- Reduce unauthorized employment
- Minimize verification-related discrimination
- Be quick and non-burdensome to employers
- Protect civil liberties and employee privacy



# **How Does E-Verify Work?**



## Form I-9 Resources

### I-9 Central

I-9 Central
Revised I-9 Table of Changes
I-9Central/Espanol (Spanish)
Form I-9 DACA Guidance
Updated Receipts Guidance
Form I-9 and E-Verify Natural
Disaster Fact Sheet

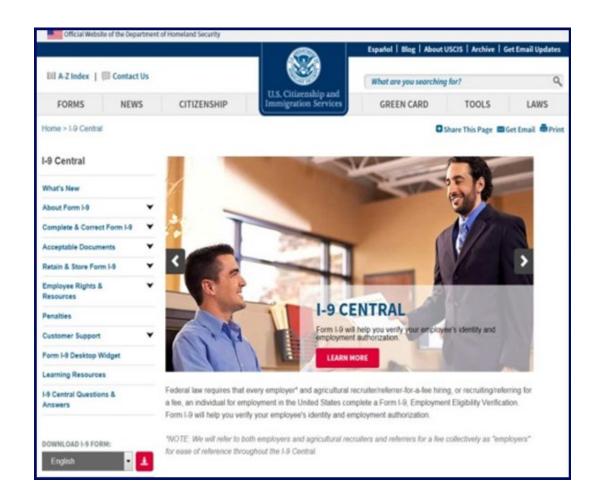
M-274, Handbook for Employers M-274 Summary of Changes

## **Mergers & Acquisitions**

Examples of documents:

Acceptable Documents
Automatic Extensions
Combination Documents

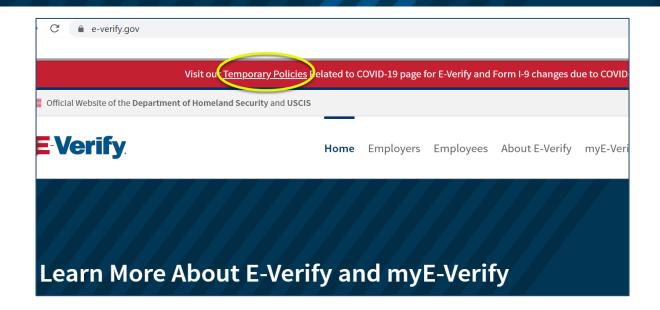
I-9 Webinar on Demand & Vignettes







## **Temporary Polices Related to COVID-19**



Please visit our COVID-19 Temporary Policy page for a full list and details regarding temporary policies related to Form I-9 and E-Verify.

Go to E-Verify.gov and click on the 'Temporary Policies' link.

## **Temporary Policy Resources related to COVID-19**

#### Form I-9 Physical Document Review for Section 2

Because of ongoing precautions related to COVID-19, DHS has extended the Form I-9 requirement flexibilities to Decemeber 31, 2021

### Form I-9 Completion by Non E-Verify Agricultural Employers of Certain H-2A workers

On April 20, the Department of Homeland Security published a <u>temporary final rule to amend certain H-2A requirements</u> to help U.S. agricultural employers avoid disruptions in lawful agricultural-related employment during the coronavirus (COVID-19) public health emergency. The temporary rule applies if USCIS receives the new employer's extension of stay H-2A petition on or after **Dec.18**, **2020**, and no later than **Jun. 16**, **2021**. See more information at the H-2A Temporary Agricultural Workers page.

#### Renewal of List B Identity Documents

Because many areas are under stay-at-home orders due to COVID-19 and renewal service restrictions, DHS has issued a temporary policy regarding expired List B identity documents used to complete Form I-9, Employment Eligibility Verification.

#### Form I-9 Verification During Employment Authorization Document (EAD) Delays Due to COVID-19

The production of certain <u>Employment Authorization Documents</u> (Form I-766, EADs) is delayed due to COVID-19. Through Feb. 1, 2021, new employees who are waiting for their EAD and current employees who require reverification may present **certain** Forms I-797, Notice of Action, as a Form I-9 List C #7 document that establishes employment eligibility, even though the notice states it is not evidence of employment authorization. See <u>I-9 Central</u> for additional details.

#### E-Verify Extended Timeframes to take action to resolve Tentative Nonconfirmations

E-Verify is <u>extending the timeframe</u> to take action to resolve certain Tentative Nonconfirmations (TNCs) due to SSA and other office closures to the public.

See the COVID-19 temporary policies page and Q&A for the most up-to-date information related to any of these policies.



# What is myE-Verify

myE-Verify is a new, free webbased service for employees to participate in the E-Verify process.

- Confirm your work eligibility
- Create a myE-Verify account
- Protect your identity
- Learn about your rights





# **E-Verify Engagement**

## Take advantage of our FREE Engagement services

Join another <u>public webinar</u> or <u>request a speaker</u> for your event or customized training.

**Topics include:** Form I-9 E-Verify Overview, E-Verify for Existing Users, Employee Rights, myE-Verify

Seek approval for E-Verify® Logo Authorization



You can use logos on websites, job announcements / applications, or company broadcasts to further advertise your company's commitment to a legal workforce.

# **Customer Service Contact Center**

E-Verify received the highest rating for customer service of all federal agencies in the American Customer Satisfaction Survey!



✓ E-Verify Website: www.E-Verify.gov

✓ Employer Hotline: (888) 464-4218

✓ Employee Hotline: (888) 897-7781

✓ Form I-9 E-Mail: i-9Central@uscis.dhs.gov

✓ E-Verify E-Mail: <u>E-Verify@uscis.dhs.gov</u>





## **Feedback**

## **COMMENTS ON OUR WEBINAR? NEED MORE TRAINING?**

Send to:

E-VerifyOutreach@uscis.dhs.gov

\*Include date, time and topic of the webinar

**THANK YOU!** 

www.E-Verify.gov

