

**SUPPORTING STATEMENT FOR
EMPLOYMENT ELIGIBILITY VERIFICATION
OMB Control No.: 1615-0047
COLLECTION INSTRUMENT(S): Form I-9**

A. Justification

1. *Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attach a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.*

This information collection has been developed to facilitate compliance with section 274A of the Immigration and Nationality Act (the Act). Section 274A of the Act, as amended, prohibits the knowing employment of unauthorized aliens and the hiring of individuals without first verifying their employment authorization and identity. The purpose of this information collection is to comply with section 274A of the Act.

DHS is proposing amendments to its regulations at 8 CFR parts 103, 212 and 274A to add new regulatory provisions guiding the use of parole with respect to entrepreneurs of start-up entities whose entry into the United States would provide a significant public benefit through the substantial and demonstrated potential for rapid growth and job creation. Parole under this proposed rule would allow these individuals to temporarily enter the United States to pursue development of start-up businesses in the United States with employment authorization incident to their parole.

2. *Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.*

Form I-9 collects information from employees, form preparers and translators, employers, recruiters and referrers for a fee (limited to agricultural associations, agricultural employers, or farm labor contractors), and state employment agencies, as applicable. Form I-9 is completed in connection with an individual's employment in the United States. The form contains three sections. The purpose of Section 1 of the form is to collect, at the time of hire, identifying information about an employee (and preparer or translator if used), and for the employee to attest to whether he or she is a U.S. citizen, noncitizen national, lawful permanent resident, or alien authorized to work in the United States. The employee must also present documentation for review evidencing his or her identity and authorization to engage in this employment. The purpose of Section 2 of the form is to collect, within 3 days of the employee's hire, the employer's identifying information (or that of a recruiter or referrer for a fee or state employment agency, as

applicable) and information regarding the identity and employment authorization documentation presented by the employee and reviewed by the employer (or recruiter or referrer for a fee or state employment agency, as applicable). The purpose of Section 3 of the form is to collect information from the employee and employer regarding the continued employment authorization of the employee. This section, if applicable, is completed at the time that the employee's employment authorization and/or employment authorization documentation recorded in either Section 1 or Section 2 of the form expires. This section may also be used if the employee is rehired within 3 years of the date of the initial execution of the form and to record a name change if Section 3 is completed. Failure of employers to ensure proper completion and retention of the form will undermine the effective enforcement of provisions of the immigration laws that are designed to control the employment of unauthorized aliens. The Act requires employers to maintain the form and make it available for inspection by officers of the Department of Homeland Security (DHS), the Office of Special Counsel for Immigration-Related Unfair Employment Practices, and the Department of Labor. The Act also has penalty provisions for failure of employers to ensure proper completion of the form and for failure of employers to retain the form for the requisite timeframes.

USCIS is submitting this request because DHS is proposing to list an alien who has been paroled in to the United States under the proposed rule, "Significant Public Benefit Parole for Entrepreneurs," among the class of aliens employment authorized incident to status or parole with a specific employer. Under the proposal, aliens with parole under this rule would be able to present their employers with their foreign passport and Form I-94 (Arrival/Departure Record) indicating entrepreneur parole to satisfy the Form I-9 requirement to present evidence of identity and employment authorization. This request would revise the Form I-9 to include this document combination on the Lists of Acceptable Documents. This request also would revise Form I-9 to include a technical change to the Lists of Acceptable Documents by adding the Department of State (DOS) Form FS-240 Consular Report of Birth Abroad, or successor form, to List "C." This is a technical change that would formally recognize the Form FS-240, or successor form, as an acceptable document to establish employment authorization for Form I-9 purposes.

3. *Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses, and the basis for the decision for adopting this means of collection. Also describe any consideration of using information technology to reduce burden.*

The use of this form provides the most efficient means of collecting and maintaining the required data. Since this form is maintained by employers and is not submitted to USCIS/DHS, e-filing is not applicable to this information collection. However, by Interim Final Rule: Electronic Signature and Storage of Form I-9, Employment Eligibility Verification, published by Immigration and Customs Enforcement on June 15, 2006 (71

FR 34510), this form can now be electronically stored by the employer. That interim final rule was finalized on July 22, 2010 (75 FR 42575). Employers can now electronically reproduce and store a Form I-9, provided that the resulting form is readable and identical to the form issued by DHS.

The Form I-9 can be completed electronically online by visiting USCIS Web site at <http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=75bce2e261405110VgnVCM1000004718190aRCRD&vgnnextchannel=75bce2e261405110VgnVCM1000004718190aRCRD>. The form can be completed online and saved by the employers to their systems or printed to be placed in the employees' files.

4. *Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use for the purposes described in Item 2 above.*

A search of DHS automated forms tracking system was accomplished and revealed no duplication. There is no similar data collected.

5. *If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.*

The use of this form affects small businesses. However, DHS has made efforts in the design of the form to minimize the amount of data collected, the time required to complete the form, and the education level necessary to complete the form. In addition, DHS now allows the employer to store the form electronically.

6. *Describe the consequence to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.*

The purpose of this information collection is to comply with section 274A of the Act and implementing regulations requiring the verification on Form I-9 of the identity and employment authorization of individuals hired for employment in the United States. Failure of employers to collect and retain the information requested on the form will undermine the effective enforcement of the provisions of immigration laws that are designed to control the employment of unauthorized aliens.

7. *Explain any special circumstances that would cause an information collection to be conducted in a manner:*

- *Requiring respondents to report information to the agency more often than*

quarterly;

- *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
- *requiring respondents to submit more than an original and two copies of any document;*
- *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*
- *In connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
- *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
- *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
- *requiring respondents to submit proprietary trade secret, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

The special circumstances described in paragraph 7 do not apply to this form.

8. *If applicable, provide a copy and identify the data and page number of publication in the Federal Register of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to these comments. Specifically address comments received on cost and hour burden.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instructions and recordkeeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years -- even if the collection of information activity is the same as in prior periods. There may be circumstances that may preclude consultation in a specific situation. These

circumstances should be explained.

On **XXXX XX, 20XX** USCIS published a Notice of Proposed Rulemaking (NPRM) in the Federal Register at **XX FR XXXXX**. USCIS **did/did not** receive comments after publishing that notice. On **XXXXX XX, 20XX**, USCIS published a Final Rule in the Federal Register at **XX FR XXXXX**. USCIS **did/did not** receive comments.

9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

DHS does not provide payments or gifts to respondents in exchange for a benefit sought.

10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulation, or agency policy.*

There is no assurance of confidentiality. This collection of information is covered under the Privacy Impact Assessments (PIAs) [DHS/USCIS/PIA-036\(b\) - Form I-9 Employment Eligibility Verification Update, dated June 21, 2013](#); and [DHS/USCIS/PIA-030\(d\) - E-Verify Program, dated July 27, 2012](#); and associated System of Records Notice (SORN) [DHS/USCIS-011 - E-Verify Program](#), which was last published in the Federal Register on August 11, 2014, at 79 FR 46852.

11. *Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to person's from whom the information is requested, and any steps to be taken to obtain their consent.*

There are no questions of a sensitive nature.

12. *Provide estimates of the hour burden of the collection of information. The statement should:*

- *Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.*

- *If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.*
- *Provide estimates of annualized cost to respondents for the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.*

Type of Respondent	Form Name / Form Number	No. of Respondents	No. of Responses per Respondent	Avg. Burden per Response (in hours) ***	Total Annual Burden (in hours)	Avg. Hourly Wage Rate*	Total Annual Respondent Cost
Employers, recruiters and referrers for a fee (limited to agricultural associations, agricultural employers, or farm labor contractors), and state employment agencies.	Employment Eligibility Verification, Form I-9	78,000,000	1	.33 hours (20 min.)	25,740,000	\$32.52	\$837,064,800
Individuals or Households (Employees)	Employment Eligibility Verification, Form I-9	78,000,000	1	.17 hours (10 minutes)	13,260,000	\$32.52	\$431,215,200
Record keepers	Record keeping	20,000,000**	1	.08 hours (5 min.)	1,600,000	\$32.52	\$52,032,000
Total		78,000,000			40,600,000		\$1,320,312,000

* The above Average Hourly Wage Rate is the [May 2015 Bureau of Labor Statistics](#) average wage for “All Occupations” of \$23.23 times the wage rate benefit multiplier of 1.4 (to account for fringe benefits) equaling \$32.52. The selection of “All Occupations” (for example) was chosen as the expected respondents for this collection could be expected to be from any occupation.

**The 20 million record keepers are a subset of the 78 million respondents. Record keeping is generally only a portion of HR functions. Not everyone who completes Form I-9 will be responsible for its retention.

*** Time burden – Time per response breakdown:

Time burden for Employers – 20 minutes total

- **8 minutes** - Reading the instructions to the form and consulting the manual as needed
- **10 minutes** - Completing Section 2, including reviewing documentation presented by the employee

- **2 minutes** - Section 3 of the form when necessary – In limited circumstances the employer would need to review one document, sign and date.

Time burden for Employees – 10 minutes total

- **3 minutes** – Reading form instructions
- **5 minute** – Gathering the required supporting documentation
- **2 minutes** – Completing Section 1 of the form

13. *Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14).*

- *The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.*
- *If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of purchasing or contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.*
- *Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government or (4) as part of customary and usual business or private practices.*

There is no cost burden to respondents for actually responding to this information collection- start-up, maintenance, and operating costs associated with completing the paperwork. There is no fee associated with this information collection.

14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

Annualized Cost Analysis

A. Printing Cost	\$	2,507
B. Collection and Processing Cost	\$	11,520,000
C. Total Cost to Government	\$	11,522,506

Government Cost

Federal government cost is estimated at \$11,522,507. This figure is derived by calculating the actual costs to print and distribute the Form I-9 to the public. This figure also includes the cost to conduct on-site employer compliance reviews in accordance with section 274A of the Act. The compliance review costs are calculated by multiplying the number of ICE Forensic Auditors (144) x \$80,000 (average annual salary with benefits).

15. Explain the reasons for any program changes or adjustments reporting in Items 13 or 14 of the OMB Form 83-I.

Data collection Activity/ Instrument	Program Change (hours currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (hours currently on OMB Inventory)	Adjustment (New)	Difference
Form I-9 Employers	-	-	0	18,282,000	25,740,000	7,458,000
Form I-9 Employees				9,418,000	13,260,000	3,842,000
Total(s)	-	-	0	27,700,000	39,000,000	11,300,000

There is an increase in the estimated burden hours as previously reported for this information collection; USCIS inadvertently reported a lower estimated number of respondents during the last submission for OMB approval that was concluded on 8/25/2016. The minimal change in respondents due to the rule change is not significant enough to modify the numbers presented. There is no change in the information being collected. In this information collection, DHS is

updating the Lists of Acceptable Documents of Form I-9 to replace “nonimmigrant” with “individual” and adding “or parole” when describing who and under what circumstances an individual may present to his or her employer with a foreign passport and Form I-94 under List A of Form I-9. DHS is also adding to the Lists of Acceptable Documents under the “List C” column, the Department of State (DOS) Form FS-240 Consular Report of Birth Abroad, or successor form. The reason for these changes is to conform to proposed changes to DHS regulations describing the documents acceptable for Form I-9 being made in DHS’s proposed rule, “International Entrepreneur Rule.” The proposed rule adds to the regulations at 8 CFR 274a.12(b), entrepreneur parolees to the class of aliens authorized for employment incident to status or parole with a specific employer and who may present the foreign passport and Form I-94 under List A of Form I-9. Without changing “nonimmigrant” to “individual” on the Lists of Acceptable Documents, the public will not have accurate information necessary to complete Form I-9 properly. The rule also proposes a technical change to 8 CFR 274a.2(b)(1)(v)(C) to add Form FS-240 Consular Report of Birth Abroad, or successor form, to the list of acceptable documents evidencing employment authorization. Since 2011, Form FS-240 has been exclusively issued by DOS as evidence of a U.S. citizen’s birth abroad and acquisition of U.S. citizenship at birth, as well as used to replace a lost, stolen, or damaged Form FS-545 Certification of Birth Abroad or Form DS-1350 Certification of Report of Birth. This technical change will formally recognize the Form FS-240, or successor form, as an acceptable document to establish employment authorization for Form I-9 purposes.

Data collection Activity/ Instrument	Program Change (cost currently on OMB Inventory)	Program Change (New)	Difference	Adjustment (cost currently on OMB Inventory)	Adjustment (New)	Difference
Form I-9	0	0	0	0	0	0
Total(s)	0	0	0	0	0	0

There is no change in the estimated cost burden associated with this information collection. There is no change in the information being collected.

16. *For collections of information whose results will be published, outline plans for tabulation, and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.*

DHS does not intend to employ the use of statistics or publication thereof for this

collection of information.

17. *If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.*

DHS will display the expiration date for OMB approval of this information collection.

18. *Explain each exception to the certification statement identified in Item 19, "Certification for Paperwork Reduction Act Submission," of OMB 83-I.*

DHS does not request an exception to the certification of this information collection.