



**Privacy Impact Assessment Update
for the**

Form I-9 “Employment Eligibility Verification” Update

DHS/USCIS/PIA-036(b)

June 21, 2013

Contact Point

Donald K. Hawkins

Privacy Officer

US Citizenship and Immigration Services

(202) 272-8030

Reviewing Official

Jonathan Cantor

Acting Chief Privacy Officer

Department of Homeland Security

202-343-1717



Abstract

The Department of Homeland Security's (DHS) U.S. Citizenship and Immigration Services (USCIS) Verification Division manages the business process in support of the statutory requirement that employers maintain Form I-9, *Employment Eligibility Verification*, which is completed by their new employees. This form serves to verify employment authorization for all new employees. The purpose of this update is to: (1) describe the collection of additional information in "*Section I: Employee Information and Attestation*" of Form I-9; and (2) describe the update to Form I-9 instructions.¹

Introduction

In 1986, Congress mandated that employers verify that all new employees hired after November 6, 1986, are authorized to work in the United States.² In response to this mandate, Form I-9, "*Employment Eligibility Verification*," hereinafter referred to as Form I-9, was created and is now issued by the U.S. Citizenship and Immigration Services (USCIS). All U.S. employers must complete and retain a Form I-9 for each individual they hire for employment in the United States. This requirement applies to both U.S. Citizens and non-citizens. The employer must examine Form I-9 and identity document(s) (e.g., driver's license, passport, birth certificate) an employee presents to determine whether the document(s) reasonably appear to be genuine. The employer records the identity document information on Form I-9.

USCIS is the component of DHS that manages the employment eligibility verification process. USCIS does not collect information directly from employees via this process; rather, employers collect this information directly from their employees. Employers that participate in the E-Verify program submit information from Form I-9 to the E-Verify system, which uses various federal government databases to determine employment eligibility.³

USCIS is updating Employment Eligibility Verification Requirements Under the Form I-9 PIA dated April 15, 2011, to describe the collection of additional information in "*Section I: Employee Information and Attestation*" of Form I-9 and to describe the update to Form I-9 instructions.

Collection of Additional Information

To better support the verification process, USCIS added both mandatory and optional data fields in "*Section I: Employee Information and Attestation*" of Form I-9. These data fields include the following:

¹ DHS is making corrections and clarifications to the DHS/USCIS/PIA-036(a)- Form I-9 "Employment Eligibility Verification" PIA Update published on July 27, 2012, regarding DHS' planned use of information from the updated Form I-9 released in March 2013. This PIA Update replaces the version issued on July 27, 2012.

² The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub. L. 99-603 (8 U.S.C. § 1324a).

³ For additional information about E-Verify see <http://www.dhs.gov/e-verify>. All DHS PIAs and SORNs, including those for E-Verify, can be found at www.dhs.gov/privacy.



Employee Email Address and/or Telephone Number

USCIS modified Form I-9 to include employee email address and telephone number as optional fields to assist USCIS in streamlining E-Verify processes and improving notice to employees regarding potential mismatches between the information provided on Form I-9 and the information in DHS or Social Security Administration (SSA) records. If the employee provides his or her contact information and the employer enters this information into E-Verify, USCIS will provide notifications regarding potential mismatches directly to the employee. Updates to the E-Verify system will take place to accommodate the collection of this information. Employees will continue to receive written notification directly from their employer; this option simply allows the employee to receive an additional form of notice. This employee contact information is used for the purpose of contacting the employee and does not factor into employment eligibility verifications including those processed through E-Verify. Additional information about the E-Verify program, including employee notification and the Tentative Non Confirmation (TNC) process, are available at <http://www.dhs.gov/e-verify>.

Foreign Passport Number and Foreign Passport Country of Issuance

USCIS modified Form I-9 “*Section I: Employee Information and Attestation*” to include “Foreign Passport Number” and “Foreign Passport Country of Issuance” as mandatory fields for the employees that meet the criteria specified below. For non-citizens, a primary identifier is currently either an I-94 number or an Alien number (A-number). Due to recent efforts by Customs and Border Protection (CBP) to automate the issuance of I-94 numbers and the resulting uncertainty of future document issuance, the additional collection of passport and country of issuance supplements the primary identifier. Additionally, E-Verify developed the capability to verify employment eligibility using a combination of passport number and country of issuance.

The Foreign Passport Number and Foreign Passport Country of Issuance data fields are required to be filled out by the employee if he meets all of the following criteria:

- (1) He attests to being an Alien Authorized to Work;
- (2) He does not have an Alien Registration Number;
- (3) He did not receive an I-94 from USCIS; and
- (4) He entered the United States using a foreign passport.

Form I-9 Instructions

USCIS updated and expanded the Form I-9 instructions to inform employees of the purpose for collecting the additional data elements identified above. The instructions provide notice that providing email and phone number is optional and that the information may be used by DHS to contact the employee if DHS learns of a potential mismatch between the information provided and the information in DHS or SSA records. Also, based on public feedback regarding Form I-9, USCIS added additional instructions to assist employees in filling out the form correctly. Finally, USCIS updated the Privacy Act Statement and Form I-9 instructions to ensure that the individual completing Form I-9 receives



appropriate notice and to ensure that the purpose for collecting information associated with the Form is transparent.

Reason for the PIA Update

USCIS is updating the Employment Eligibility Verification Requirements Under the Form I-9 PIA (April 15, 2011), to: (1) describe the collection of additional information in “*Section I: Employee Information and Attestation*” of Form I-9, including the employee email address and/or telephone number, foreign passport number, and foreign passport country of issuance; and, (2) describe the update to Form I-9 instructions.

Privacy Impact Analysis

In each of the below sections consider how the system has changed and what impact it has on the below fair information principles. In some cases there may be no changes and indicate as such.

The System and the Information Collected and Stored within the System

USCIS does not collect information directly from employees; employers collect information directly from their employees. Employers that participate in the E-Verify program submit information from Form I-9 to the E-Verify system, which uses various federal government databases to determine employment eligibility.

The current Form I-9 collects both foreign passport number and foreign passport country of issuance. Previously, Section 1 of Form I-9 did not collect foreign passport or foreign passport country of issuance. The foreign passport number, combined with the country of issuance, creates a unique identifier for the individual. Adding these fields provides DHS/USCIS an additional means of verifying whether the individual is authorized to work in the United States.

In addition to the country of issuance of foreign passport field, DHS/USCIS added email and phone number to the form as optional fields. The Form I-9 instructions clearly state that providing the information is optional and may be used to contact the employee regarding a potential mismatch between the information provided on Form I-9 and the information in DHS or SSA records. As updates to the E-Verify system take place to accommodate the collection of this information, USCIS will begin to provide notifications about potential mismatches directly to the employee.

Uses of the System and the Information

Employers will continue to use information on Form I-9 to determine whether an employee is authorized to work in the United States. USCIS is working to streamline E-Verify processes and improve notice to employees regarding potential mismatches between the information provided on Form I-9 and the information in DHS or SSA records. If the employee provides his or her email address and phone number and the employer enters this information into the E-Verify system, USCIS will begin to provide notifications regarding potential mismatches directly to the employee. Updates to the E-Verify system will take place to accommodate the collection of this information. This employee contact information will be used for the purpose of contacting the employee and does not factor into employment eligibility



verifications through the E-Verify system. Employees will continue to receive written notification directly from their employer; this option simply allows the employee to receive an additional form of notice.

Retention

There is no change to the retention schedule for Form I-9 with the collection of additional information. The retention of Form I-9 information remains the same as described in the April 15, 2011, PIA.

Internal Sharing and Disclosure

There are no changes in internal sharing and disclosure as a result of this update

External Sharing and Disclosure

There are no changes in external sharing and disclosure as a result of this update.

Notice

This PIA, the DHS/USCIS-011 E-Verify Program SORN, the form instructions, and the Privacy Act Statement on Form I-9 provide notice to the individual. There are no additional changes to the notice procedures associated with the Form I-9 itself, as outlined in the April 15, 2011 PIA. Changes to Form I-9 that give employees the option to provide their e-mail address and phone number enable the E-Verify program to provide direct notice to employees regarding potential mismatches between the information they provided on the Form I-9 and the information in DHS and SSA records.

Individual Access, Redress, and Correction

There is no change to individual access, redress, or correction to the Form I-9 itself as a result of this update. Since the information on Form I-9 is both collected and controlled by the employer, and DHS is not actively involved in the collection or storage of the Form, the employee must work with the employer to redress any issues. Nevertheless, requesting the employee's email address and phone number enables DHS to provide more direct notice to employees so they may take action to resolve potential mismatches between the information they provided on the Form I-9 and the information in DHS or SSA records.

Technical Access and Security

Technical access and security of Form I-9 remain unchanged by this PIA update and no further technical access and security risks have been identified.



Technology

Technology of Form I-9 remains unchanged by this PIA update and no further technology risks have been identified.

Responsible Official

Donald K. Hawkins
Privacy Officer
U.S. Citizenship and Immigration Services

Approval Signature

Original signed and on file at the DHS Privacy Office.

Jonathan R. Cantor
Acting Chief Privacy Officer
Department of Homeland Security