

What's Happening with the I-9 Form?

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New I-9 Form, effective January 22, 2017

The USCIS is finally going to be issuing a new I-9 form, which will be effective January 22, 2017. The current I-9 form continues to be in effect even though it states that it expires on March 31, 2016.

This new I-9 form has cleared its final hurdle – approval by the Office of Management and Budget (OMB). Although the new form will not be for mandatory use until January 22, 2017, the USCIS must publish it by November 22, 2016. If it follows the pattern of the 2013 I-9 form, employers will be able to use either the 2013 I-9 form or the 2017 I-9 form for the period between November 22, 2016 and January 21, 2017. The new I-9 form will have an expiration date of August 31, 2019, which is consistent with previous I-9 validity periods.

Changes to the New I-9 Form

To date, the USCIS has not published a draft of the new I-9 form although it has stated changes that will be included in the 2017 I-9 form. Some of these changes are:

- (1) Replacing the “Other Names Used” field in Section 1 with “Other Last Names Used.” This will avoid employees writing their nicknames in this field;
- (2) Modifying Section 1 to request certain employees to enter either their I-94 number or foreign passport information, rather than both;
- (3) Providing a box for employees to check if they did not use a preparer or translator;
- (4) Modifying the I-9 form to enable the use of multiple preparers and translators; and
- (5) Adding an area in Section 2 to enter additional information for TPS extensions, OPT STEM extensions and H-1B portability in order to avoid having to note this information in the margins of the I-9 form.

TPS Ending for Guinea, Liberia, and Sierra Leone – What does it mean for Employees’ Work Status?

The Department of Homeland Security (DHS) announced the termination of TPS for individuals from Guinea, Liberia, and Sierra Leone as of May 21, 2017. DHS first designated these countries for TPS in late 2014 in response to the widespread and fast moving Ebola virus epidemic in West Africa. Once granted TPS, an individual can apply for temporary work authorization in the US and receive an employment authorization document (EAD), a List A Document.

While TPS will soon be ending for these individuals, the DHS has provided for an orderly transition by automatically extending TPS and work authorization for qualified individuals until May 20, 2017. Beneficiaries do not need to re-register for TPS or apply for a new EAD – an important point to note for employers.

Rules to Follow Concerning Automatic Extension of EAD

Employers must follow special rules for documenting an automatic EAD extension for existing employees through a review and correction process. In section 1, the employee draws a line through the expiration date in the first space and writes May 20, 2017 above the previous date. In the margin of section 1, the employee writes “TPS Ext”, and initials and dates the correction.

In section 2, the employer draws a line through the expiration date and writes May 20, 2017 above the previous date. Then the employer writes “EAD Ext” in the margin of section 2, and initials and dates the correction.

Employers must also reverify employment authorization again in section 3 in advance of the expiration date of the automatically extended EAD.

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